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sound and television broadcasting news

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GENERAL SECTION

BROADCASTING IN THE FEDERAL REPUBLIC OF GERMANY

by DR. HANS BRACK

The E.B.U. member for Germany is the Association of chartered broadcasting corporations of the Federal Republic of Germany (*Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland — ARD*). Nine broadcasting organisations in Western Germany now belong to this association, which was first founded in 1950. These are, in alphabetical order: *Bayerischer Rundfunk* in Munich (for Bavaria), *Hessischer Rundfunk* in Frankfurt/Main (Hesse), *Norddeutscher Rundfunk* in Hamburg (Lower Saxony, Schleswig-Holstein and the free Hanseatic city and state of Hamburg), *Radio Bremen* (Bremen), *Sender Freies Berlin* (West Berlin), *Süddeutscher Rundfunk* in Stuttgart (primarily for the North Württemberg and North Baden part of Baden-Württemberg), *Südwestfunk* in Baden-Baden (primarily for the South Baden and South Württemberg part of Baden-Württemberg and for Rhineland-Palatinate), *Saarländischer Rundfunk* in Saarbrücken (Saar), and *Westdeutscher Rundfunk* in Cologne (North Rhine-Westphalia). The management of the *Arbeitsgemeinschaft* alternates yearly among the member organisations and this year it is the turn of the *Bayerischer Rundfunk*, under its director Dr. Franz Stadlmayer.

The chief functions of the ARD are to look after the common interests of the broadcasting organisations of which it is composed, as, for example, in the matter of sovereignty rights in the field of broadcasting (§ 2, 1 a, of the ARD Statutes), to coordinate programme activities, and to study jointly legal and technical questions.

As will have been seen from the foregoing remarks, broadcasting in the Federal Republic is not controlled by a single central body, but is rather in the hands of separate, independent organisations in the various *Länder*, which have banded together for the purpose of accomplishing certain common tasks within the supra-regional association of the ARD. The reason why broadcasting in the German Federal Republic has been organised in this way is to be found in the federal structure of the country. The legal bases of the various broadcasting organisations were fixed by laws (and sometimes by agreements) in the individual *Länder*, making them public corporations with the right of independent administration, responsible for the production of programmes and the operation of transmitters.

There is a great deal of similarity between the constitutions of the separate organisations. Each has at its head a Broadcasting Council, an Administrative Council, and a director who is called an *Intendant*. In the case of *Norddeutscher Rundfunk* and *Westdeutscher Rundfunk*, there is also a Programme Advisory Board whose task is to advise the *Intendant* on the composition of programmes. The Broadcasting Councils are appointed for a set term of office, and the members are chosen partly—in the case of the NDR and the WDR, exclusively—by the parliaments of the *Länder* and partly by their governments, churches, employers' and employees' associations, universities, press, and other bodies. These Broadcasting Councils are a universal guarantee of a free and equitable representation of the common interests of the general public. One of the Broadcasting Council's most important tasks is to appoint the members of the Administrative Council whose duty is to supervise the general management of the organisation. In the case of many of the organisations, the Broadcasting Council does not appoint all the members of the Administrative Council, some of the seats being filled by other authorities such as the president of the High Court, important officials, and representatives of the *Länder* governments or legislatures; but the majority is always elected by the Broadcasting Council. The direction of the organisation is in the hands of the *Intendant* who is appointed for a period of several years by the Broadcasting Council and the Administrative Council together. When important issues have to be decided, both Councils are consulted.

In the field of sound radio, most of the organisations broadcast, in addition to their programme on medium waves, a second and in some cases a limited third programme on VHF. VHF transmissions were started in 1950 because of the lack of medium waves and have now acquired considerable importance in the Federal Republic since the erection of a vast network of VHF installations.

The member organisations of the ARD broadcast a joint programme on short waves and this service is known as the *Deutsche Welle*. An agreement concluded in March 1953 among the broadcasting organisations laid the foundations for the constitution of the *Deutsche Welle* whose purpose is to give foreign listeners an idea of the

political, economic and cultural aspects of contemporary life in Germany. All the member organisations contribute programmes to this end, and they are broadcast to the Near and Far East, North and South America and Africa by the Heinrich Hertz short-wave transmitters in Jülich/Rhineland. The administrative and editorial offices of the *Deutsche Welle* are in Cologne.

A regular television service has been in operation in the Federal Republic of Germany since 1st January 1953. The programme is a joint effort to which all the organisations contribute, and at present it is transmitted for an average of 4½ hours a day. It should be mentioned that, in the field of television, NDR and WDR have amalgamated to form the *Nord- und Westdeutscher Rundfunkverband*. The German television programme is compiled on the basis of the plans and proposals of the individual organisations by the chairman of the standing Programme Conference in conjunction with the members of this body. The Programme Conference is composed of a representative from each organisation and is advised by a supra-regional television advisory board to which each organisation sends a representative who is at the same time a member of its Broadcasting Council, Administrative Council, or Programme Advisory Board. The German television programme is augmented by regional pro-

grammes broadcast by the various organisations to their own areas.

In addition, there is a commercial television programme in South Germany and in Berlin, and it too is transmitted by the public service corporations. It lasts on an average for 30 minutes a day and includes 6 minutes of advertising. In the reception areas of Norddeutscher Rundfunk and Westdeutscher Rundfunk, commercial television is in the planning stage. In this connection, it should also be mentioned that there has been commercial sound broadcasting for many years in South Germany, Bremen and Berlin, but Norddeutscher Rundfunk and Westdeutscher Rundfunk have taken no part in it.

The monthly fee payable for a radio licence is DM 2 and for a television licence DM 5. It is not possible to take out a licence for television alone. These fees are collected by the Post Office which deducts a minimum of 19.3% from the sound radio licence fee to cover the costs of collection, the detection of unlicensed sets and anti-interference measures. Of the television licence fee, the Post Office share to cover the cost of lines is fixed at a lump sum of DM 1.35 per licence.

The number of radio licences in the Federal Republic and West Berlin on 1st September 1958 reached roughly 15 million and the number of television licences 1,750,000.

In

Part A (Technical) of E.B.U. Review No. 51

you will find :

an article by E. Castelli describing the conditions under which the television link between continental Italy and Sardinia was put into service;

an article by G. Armier and M. Dumas on the planning of the RTF Station at Limours and its principal activities;

an article by H. Bödeker on the development of German standards-conversion technique;

an article by J. J. Geluk on a method of measuring the speed fluctuations in magnetic recording;

an analysis of the new Technical Standards, Series A, recently published by the IFRB, with special reference to modifications since the previous edition;

various items of information on the technical activities of different broadcasting and television organisations, describing notably the new studios of the SDR at Karlsruhe, the Broadcasting House at Bordeaux, the resources used to achieve the recent television link between Algiers and Paris, Radio Eireann's new equipment for remote switching of the Irish broadcasting network;

the situation in the long- and medium-wave spectrum at 15th September, 1958;

a short account of the last meeting of the Bureau of the EBU Technical Committee in London.

RADIO GREENLAND

by FREDERIK NIELSEN

Managing Director, Greenland Broadcasting System

The first broadcasting service in Greenland, which was started at the beginning of the Second World War, was housed in a small room in the telegraph station at Godthaab. Its director was the originator of the idea, the then editor of *Atuagagdliutit*, Kristoffer Lynge, and he was assisted by the editor of *The Greenland Post*, Christian Vibe, a zoologist whom circumstances had forced to remain in Greenland. All technical matters were taken care of by Th. Woodschou, the telegraph manager. Everything was on a very modest scale at the outset, but the time chosen for the start could scarcely have been more opportune: all communications with the mother country—by telegraph as well as otherwise—having been severed, the people in those parts of Greenland where the low-powered transmitter was audible warmly welcomed the chance to listen to the news reports issued by the new radio service, which presently expanded its operations to include the broadcasting of educational and entertainment programmes, and of music from such gramophone records as could be borrowed from their respective private owners.

Since then, Radio Greenland has gradually become an indispensable factor in the social life of the Greenlanders. The growth of the programmes was out of all proportion to the technical facilities, however. Getting harder to please as time went by, the listeners began to complain about the inadequate power of the transmitter which tended to make reception difficult or impossible in large parts of Greenland. The political representation of the Greenlanders, the Provincial Council, took up the problem and, firmly convinced of the great importance of radio from a social point of view, informed the Danish Government of the desirability of a really up-to-date broadcasting system. This expressed the wish of the entire population of Greenland, and the matter was indeed taken up for consideration. However, it was to be Johannes Kjaerbøl, first holder of the new office of Minister for Greenland, who, exerting his usual energy, finally brought the project into effect.

Building operations on the new broadcasting system were started in the summer of 1956. A transmitting station was erected on one of the islands off Godthaab, and the foundations were laid, at the same time, of a new broadcasting house ashore in Godthaab. The Kook-Island transmitter was put into service on the first of January, 1958. The two relay stations at Godhavn and at Frederikshaab, designed to cover the north and the

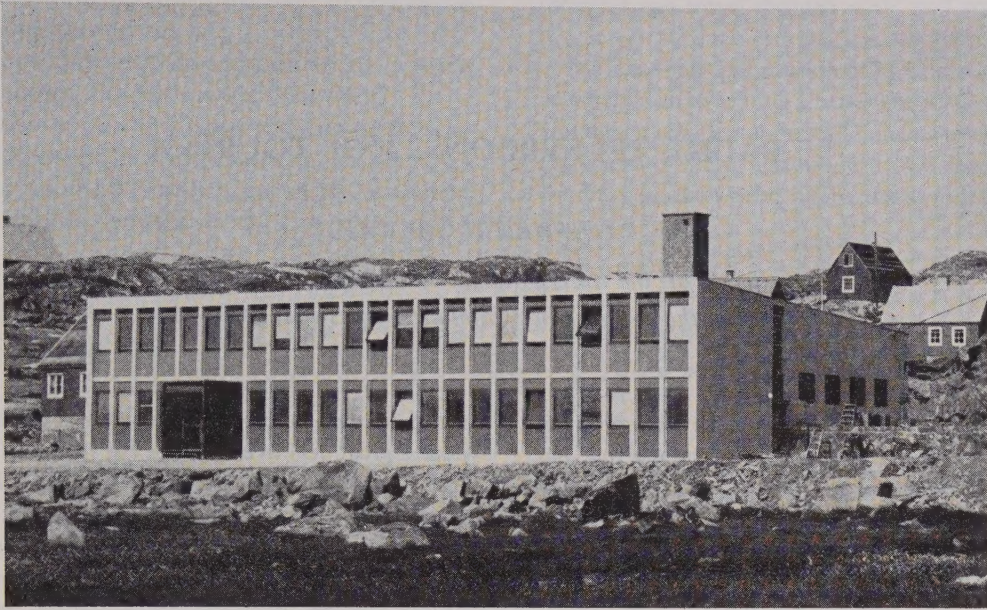
south parts of the country respectively, did not get finished according to schedule and will not be ready to go into operation until later in 1958.

In the meantime, the new Greenlandic radio staff had received an all-round training at the Danish State Radio in Copenhagen. Together with a couple of experienced radio men from the State Radio's own staff, they arrived at Godthaab during the winter of 1957 and moved into the new Broadcasting House on the first of April, 1958. Greenland's new broadcasting system had thus become a reality.

Measured by Greenland standards, the new Broadcasting House is an imposing edifice. The main entrance on the ground floor leads into a large foyer, which opens into the largest studio, the "concert hall", accommodating an audience of more than a hundred people. In addition to this, there are two other studios: a talks studio and a larger one intended for round-table discussions, and similar programmes. Facilities further include control room, recording room, record library with a storage capacity of 15,000 gramophone records and with an extra panel of recording machines, and a reference library and conference room which also contains tape-reel cabinets. Across the main passage are four offices for the manager and the programme directors. Nearest the foyer is the canteen, which is a very practical arrangement considering the long working-hours of the programme directors and engineers.

Broadcasting House is at the same time the centre of Greenland's cultural life. On the first floor is a suite of offices for the editorial staffs of *Atuagagdliutit* and *The Greenland Post*, and for the educational adviser and his assistants. The Cultural Council of Greenland and the Radio Council hold their meetings in the library and conference room.

Considering the paucity of the staff, the sending time is relatively long. The normal daily total is 7 hours and 15 minutes, spread over the hours of 07.30 to 23.00, with one additional programme hour on Saturdays and two additional hours once every month. Sunday programmes invariably include divine service transmissions. Programmes in Norwegian and Faroese, intended for the crews of fishing vessels from Norway and the Faroe Islands operating off the coastline, are broadcast on summer Sundays. During the intervals, staff members are busy recording programmes on tape for subsequent use, e.g. in school broadcasts, a series of which is



Broadcasting House in Godthaab, Greenland.

scheduled to begin in the autumn and continue until the end of March next year. Broadcasting for schools occupies a prominent position in Radio Greenland.

Programmes are all-embracing, ranging from talks on serious subjects to regular entertainment programmes. Musical programmes occupy almost one half of the sending time; they are made up of gramophone records and of tape recordings received from the State Radio in Copenhagen. These tapes—which, apart from the music, contain a variety of other material—originate from the Greenland division of the Danish State Radio

and are a great help to us. Radio Greenland is bilingual, both Greenlandic and Danish being used, but Greenlandic is, of course, the predominant language.

Radio Greenland soon became one of the dearest and most cherished possessions of the Greenland people. They would be quite unable to do without it today; and the radio indeed has an important mission in a country as large as Greenland, with sparsely built up areas and adverse conditions of communication. Already inestimable, its importance is not likely to diminish in the years to come.

RADIO, TELEVISION... AND TOURISM

by PAUL-HENRI JACCARD

*President of the International Academy of Tourism
Member of the Programme Committee of Swiss Television*

When the radio programme ends or the picture on the television screen fades, that longing to escape that lies more or less dormant in each one of us often comes to life—rhythms of a far-off country, folk songs, pictures of other lands, these are the essence of the invitation to travel!

And this is what encourages the development of tourism, stimulated, if not created, by these extraordinary media of communication that modern technology has given us in radio and television.

The lucky beneficiary, tourism, is brought into contact through its many forms and ramifications with the majority of human activities, and while deriving every benefit therefrom, may often succeed in giving them an extra fillip or infusing new blood into them. In the new humanism which is being ushered in by the scientific, social and philosophical transformations taking place in the modern world, tourism will be one of the essential constituents instead of the accessory adjunct it has long been considered in common with the leisure pursuits connected with it.

Its face has greatly changed since the publication of Jean-Jacques Rousseau's novel *La Nouvelle Héloïse* brought the first influx of enthusiastic tourists to the banks of the Léman, or when Goethe discovered Italy and showed his compatriots a peaceful way to satisfy their urge towards the South, or Byron's travels produced *Childe Harold's Pilgrimage*. Tourism is no longer, nor has it been for a long time, the prerogative of the leisured classes. It is now accessible to all, to be used within the limits of the means at the disposal of each of us.

Nowadays, the tourist is not distinguishable from other men by differences of class, manners or wealth. He is no longer in a class apart, nor is he to be considered as a phenomenon. Everybody at some time in his life becomes a tourist and travels for pleasure, sampling what modern civilisation has to offer the traveller from its store of experience, slowly acquired and now to all appearances at its peak of perfection: travel and communication facilities, hotels, motels, bars, casinos, camping grounds, holiday camps, etc.

For many years a luxury that only the upper classes, or at any rate the "well to do", could afford, tourism has finally come within reach of everybody and its popularity is spreading. Holidays with pay together with the tariff

measures they involve, and sometimes double pay, have done a great deal to encourage the spread of tourism, but radio and television have done just as much in bringing constant reminders into the home of what lies outside. Tourism inside the home country comes first and then, in increasing proportions, international tourism which at certain periods of the year practically empties some regions of their original inhabitants and fills them again with foreigners in search of whatever stimulant they seem to find in moving from their natural surroundings.

Pascal said that man's misfortune springs from his inability to sit quietly in a room. At that rate, we must conclude that humanity has a predilection for misfortune, for modern man must always be on the move and has a horror of having to stay too long at a stretch in one room.

It hardly seems necessary to stress the considerable personal benefit the tourist derives from this momentary escape from the world in which he lives every day, but there is more to it than that. The undoubted enrichment of the personality that is derived from these contacts with the outside world, with other countries and their ways of life, their problems, difficulties, hopes and achievements—such enrichment cannot fail to have any but the happiest of consequences for human communities. Very often the tourist brings back only a very sketchy and rather superficial knowledge of things and people he has come across on his travels abroad, but even that is better than complete ignorance.

However short his excursion beyond his own frontiers, man is inevitably bound to change his view of the world on more than one point. One's view of oneself is instinctively absolute, but it becomes relative through experience and as the tourist learns about other people he also acquires a better notion of his own proper place and that of his country in the scheme of men and of nations.

It is obvious that one cannot immediately get to know the people in the countries one visits. But in all lands radio and television are multiplying contacts and developing communities of programmes and Eurovision networks that know no frontiers. The amazing development of international tourism which is also tending to clear away the last obstacles to the free movement of peoples is due in a large measure to this activity. Every

year brings new progress along the road to confidence and union. The barriers are falling before tourism and broadcasting, and administrative formalities are growing less rigid; in a word, Europe is establishing itself.

This is the time to plan for a closer cooperation between tourism and its powerful allies, not based on considerations of business or untimely prejudice, but in the realisation that the connection between them is very close, for

thoughts can travel through radio and television just as people can through tourism.

The joint role and mission of broadcasting and tourism is to help men to acquire a better knowledge of each other, and thereby mutual understanding and toleration. Books, newspapers, films, radio and television are splendid windows on the world; international tourism is the open door.



View of Lausanne

RADIO AND TELEVISION LICENCE FEES: BRITISH COMMONWEALTH — EXTRA-EUROPEAN

Country or Territory	Number of Licences (L) or Receivers (R) current on 31.12.57	Annual Licence Fee	Wired Broadcasting		Free Licences (included in col. 1)	Television		Remarks
			Annual Licence Fee	Number of Licences		Licence Fee	Number of Licences	
COUNTRIES OF THE COMMONWEALTH								
Australia	L. 2,308,399	£A1/8/- to £2/15/-* 8/- to 10/-**			8,640	£A5	166,576	* depending on proximity to transmitter ** for pensioners
Canada and Newfoundland	R. 9,660,000	none					2,960,000	
Ceylon	L. 163,923*	Rs. 15	Rs. 15	18,362	1,789			* on 31.12.56
India	L. 1,347,216	Rs. 3-15 and 10-50 (1952)						unofficial figure
New Zealand	L. 542,299*	30/-			2,815			* on 30.9.57
Pakistan	L. 104,204	Rs. 10						
Union of South Africa	L. 866,255	£1 to £1/15/-* 10/-**	3/-	11,917	2,467			* depending on proximity to transmitter ** for aged and infirm
COLONIES, PROTECTORATES, OVERSEAS TERRITORIES UNDER MANDATE OR TRUSTEESHIP								
Aden	L. 811*	15/-						Colonial Office (C.O.) * estimated number of receivers : 10,000
Bahamas	L. 5,990*	**						* on 31.12.54 (C.O.) ** licence fee replaced by tax of £2/10/- on each receiver entering Colony
Barbados	L. 26,410*	\$2.40	\$24 to \$33	18,000				* on 30.11.57 — C.O.
Bermuda	R. 16,000	none				none	4,000	C.O.
Falkland Is.	L. 771	10/-	£1	330				C.O.
Fiji	L. 18,000*	25/-						* C.O. — many receivers are unlicensed
Guiana (British)	L. 32,898	\$1.50			219			C.O.
Honduras (British)	L. 1,210	\$2						C.O.
Hong Kong	L. 116,599*	HK\$20	HK\$120**	53,000		HK\$55***	1,750***	C.O. — * on 31.11.57 ** plus \$60 for each extra point (9,500 in 1957) *** wired television
Jamaica		none	£5/8/-	17,000				C.O.
Kenya	L. 23,576	30/-*	3/-	225				C.O. — * reduced annual rate of 5/- for Africans (3,758 in 1957)
Leeward Is.								C.O.
Antigua	L. 1,046	\$1						C.O. — * on 30.6.57
Mauritius	L. 24,646*	Rs. 14						C.O. — * on 31.3.57
Nigeria (Fed. of)	L. 61,244*	10/-	5/- (N.B.C.) 7/- (Redifusion)	8,700 45,000				
North Borneo	L. 7,960	\$12 (mains)* \$ 5 (battery)						C.O. — * from 1.1.58
Sarawak	L. 24,000	\$10 (mains) \$ 3 (battery)						C.O.
Sierra Leone	L. 6,125	10/-	£3/6/-	3,962				C.O.
Singapore	L. 99,373*	\$12	\$72 (including radio)	37,472				C.O. — * on 30.6.57
Tanganyika	L. 18,314*	10/-						C.O. — * on 30.9.57
Trinidad and Tobago	L. 42,628*	\$2.40	\$30	19,000				C.O. — * on 30.6.57
Uganda		none	none	100				C.O.
W. Pacific Is.								C.O.
Br. Solomon Is.	L. 371	£A1						C.O.
Gilbert & Ellice Is.	L. 206	5/-						C.O.
New Hebrides	L. 200	12/6 Aust.						C.O.
Windward Is.								C.O.
Dominica		none						C.O.
Grenada		\$2.40						C.O.
St. Lucia	L. 150	\$2						C.O.
St. Vincent	L. 1,600	\$2.40						C.O.
Zanzibar	L. 2,340	5/-						C.O.

NEWS AND INFORMATION

INTERNATIONAL

INTERNATIONAL CONFERENCES CONCERNED WITH BROADCASTING

1958

October

16-18 October		European Association of Music Festivals	Aix-en-Provence
21-23 October	UNESCO	International Institute for Film & Television, Constituent Assembly	Paris
21-30 October	IMC	International Music Council, 7th General Assembly, Congress and Festival of Music	Paris
25-28 October	EBU	Administrative Council, 19th Meeting	Geneva

November-December

4 Nov.-5 Dec.	UNESCO	General Conference, 10th Session	Paris
21 November	EBU	Extraordinary General Assembly	Munich
22-24 November	„	General Assembly, 9th Ordinary Session	„

ASIAN MASS COMMUNICATION CONFERENCE

Second South-East Asian Meeting. — Delegates meeting in Tokyo during the first week in August held their second South-East Asian Conference on the mass communication media. They were representing Evangelical churches and organisations from Burma, Ceylon, Formosa, Hong Kong, India, Indonesia, Japan, Korea, Malaya, Okinawa, East and West Pakistan, the Philippines and Thailand. Representatives from Australia, the United States and Europe also took part. Pastor von Meyenn, head of the Bethel Church Radio Centre, attended in his capacity of member of the World Committee for Christian Broadcasting.

The main purpose of the conference was to study how the modern media of mass communication, particularly radio and television, could best be used to promote Christianity in South-East Asia. It was realised that this should not be done exclusively through the medium of purely religious programmes. It was important to produce cultural and informative programmes such as those of stations DYSR in the Philippines and HLKY in Korea, which were trying to be “family stations” and to encourage listening in a homely and religious atmosphere. The Conference should not refuse to accept responsibility for such stations, as the means of regional churches were too limited to shoulder the task alone.

Among the organisational measures of a practical nature, it was decided to set up a committee composed of representatives from each of the countries. It will have a permanent office and keep in touch with the East Asian Conference of Evangelical churches for the purposes of coordination and exchanges of information and material. The quarterly journal *The Christian Broadcaster* is to be enlarged to include an Asian section

to be produced by Asian representatives. Vigorous measures are to be taken to increase the number of training courses for heads of programme departments and broadcasting stations, and to promote the study of new programme forms and listener research.

COMMUNITY OF FRENCH-LANGUAGE RADIO PROGRAMMES

June Committee Meeting and Future Plans. —

A report on this meeting has been sent to us by the Institut National Belge de Radiodiffusion which describes the Community's recent activities¹ and shows how the cooperative efforts of the members of the Community have made it possible to give a wide diffusion on an international scale to the events of the Brussels International Exhibition.

Meeting under the chairmanship of Mr. Gaston Brenta, the Committee listed the Community's activities as follows :

Some 30 reportages on aspects and events connected with the Exhibition; 200 actuality programmes; a daily exchange of news between Brussels, Paris, Lausanne, Geneva and Montreal on artistic, political and sports events that have marked the Exhibition; joint variety programmes every fortnight; more than 50 artistic programmes, such as concerts, recitals, drama, folk songs and dances, of which some 160 relays were taken; and regular broadcasts to motorists, associating the French-language stations with similar efforts on the part of the INR.

¹ See also the article on the Community by Mr. René Dovaz in EBU Review No. 47, page 5.

The Committee noted with satisfaction the interest taken by listeners in a number of countries in the Grand Prix of French-Language Radio Plays. The INR is offering prize money to the value of 50,000 Belgian francs, and 381 requests for information about the contest were received from Greece, Germany, Holland, England, Canada, Switzerland, France and Belgium. The international jury which is at present studying entries received is to announce the winner during October.

The Committee was pleased to record that several thousand answers were received to the singing games competition held simultaneously in all the countries of the Community, and it made arrangements for the final session to be held at the Exhibition in October.

After examining a number of projects the Committee decided on the following programme for the coming season: monthly gala evenings; bi-monthly variety programmes; monthly broadcasts of original operatic works commissioned by the various organisations and broadcast in the four countries of the Community; music programmes (concerts, festivals, commemorative broadcasts); drama programmes (*Comédie Française*, new works and works written specially for radio); literary and dramatic programmes (in particular, public performances devoted to poetry); and broadcasts to schools.

It was agreed that the next meetings, to be held in 1959, would take place successively in Paris, Montreal and Lausanne.

INTERNATIONAL COUNCIL OF MUSEUMS

Cooperation between Films and Television. — A meeting of experts organised by the International Council of Museums in cooperation with UNESCO was held in July in the United Nations Pavilion at the Brussels Exhibition to discuss how film and television could use the resources of museums for new and interesting programmes. It was attended by 30 experts who came from 17 countries in Europe, North and South America and Japan.

To meet the objections of curators concerned for the safety of the objects in their collections, specific recommendations establishing the basic conditions under which films and television programmes may be safely produced in museums were drafted. At the same time, it was stressed in the interests of film and television producers that museums should recognise the competitive pressure under which the producers were operating.

The meeting suggested that the International Council of Museums should form a Film and Television Committee which, in cooperation with UNESCO, would promote the collaboration of museums with film and television on the national level, disseminate information internationally, and facilitate the production of films and programmes on museums.

It was also recommended that contact should be made

with international broadcasting organisations for the production of programmes from famous museums and their transmission to other countries, either by direct relay or on film.

UNESCO

European Centre for Sociological Research on Radio and Television. — The first European Centre for Sociological Research on audio-visual media has been set up by UNESCO at the Catholic University of Milan. It is designed to fulfil a need for young research workers in this field and to provide a means for analysing and evaluating the immediate and long-term effects of radio and television as media for information, education and propaganda.

The Research Centre on audio-visual media is the most recent addition to the Catholic University. Its operation is financed by the Italian Government and by UNESCO, in cooperation with the University. UNESCO has equipped the Centre with the latest statistical and mechanical apparatus and has offered assistance for the creation of a specialised library.

Students are initiated in modern methods of sociological research in current use in the United States by Professor Alfred McClung Lee of Brooklyn College, New York, who has been appointed to organise and direct the Centre. A study group meets every week to analyse the programmes of the Italian radio and television services, and students are authorised to visit the studios in Milan to watch the production of programmes.

The University annex in the Mendola pass was the meeting place for a national congress on the social effects of radio and television organised by the Research Centre in the summer of 1958. The congress brought together specialists in public relations, propaganda and market research, and educators from all parts of Italy.

Television and Adult Education. — An international conference on television and adult education was convened in May of this year by the French National Commission for UNESCO. The meeting enabled experts on television programmes and adult education specialists from some twenty countries to exchange views and discuss the best ways of using television for educational purposes.

Five separate committees dealt with the following subjects: cooperation between adult education and television organisations; content of television programmes for adult education; activities of adult education organisations in relation to television programmes; international exchange of programmes and news items; research and evaluation of results.

A series of recommendations was adopted in plenary meeting with a view to multiplying, in cooperation with UNESCO, international exchanges of programmes and news items. The proceedings of the conference are to be published by the French National Commission.

NATIONAL

AUSTRIA

1958 Salzburg Festival. — The number of programmes broadcast from this important cultural event continues to grow as interest increases. The Österreichischer Rundfunk broadcast in all 44 performances this year: 6 operas, 2 plays, 8 orchestral concerts, 5 Mozart matinées, 6 serenades, 5 chamber music concerts, 3 solo recitals, 4 lieder recitals, 4 religious music concerts, and a performance of Mozart's Mass in C Minor.

Relays were taken by 110 broadcasting organisations — 32 from Europe, 64 from North America, 9 from South America, 3 from Africa, and others from Japan and Australia. A number of organisations from overseas relayed performances from the Salzburg Festival for the first time in 1958. These were: Radio Congo Belge, Radio Difusora São Francisco in São Francisco do Sul, Radiodifusao da Universidade in Pôrto Alegre, Radio Inconfidencia in Belo Horizonte, and the Chile national transmitter.

The most popular relays were *Così fan tutte*, *Don Carlos*, *Vanessa*, the 2nd orchestral concert given by the Amsterdam Concertgebouw-Orchester conducted by Wolfgang Sawallisch (Mozart), the 4th orchestral concert by the Amsterdam Concertgebouw-Orchester conducted by George Szell (contemporary works), the 7th concert with a performance of Verdi's Requiem Mass conducted by Herbert von Karajan, the 8th orchestral concert by the Vienna Philharmonic Orchestra conducted by Dimitri Mitropoulos (Brahms, Beethoven and Bach), the 3rd lieder recital with Dietrich Fischer-Dieskau singing lieder by Brahms, and the 4th lieder recital with Irmgard Seefried and Dietrich Fischer-Dieskau interpreting Hugo Wolf's *Italienisches Liederbuch*.

BELGIUM — FRANCE

Franco-Walloon Conference of Regional Stations. — A Franco-Walloon Conference was held from 12th to 16th September in Liège at the Palais des Congrès during which the question of programme exchanges between the Walloon and French regional stations was studied.¹ This highly important meeting took place at the same time as the Festival of Liège, and a number of distinguished personalities was present, including the Belgian Ministers of Labour and Social Security, the Burgomaster of Liège, the French Consul in Liège, several members of the Belgian House of Representatives and the Administrative Council of the INR, the Director-General of the RTF, Mr. Christian Chavanon, and a number of heads of RTF Services.

The delegates from the regional stations taking part in the discussions made a careful study of previous exchanges and drew up a most satisfactory report showing that 250 programmes of all kinds had been exchanged during the last season. At the same time, plans were made for future exchanges and the desirability was stressed of maintaining a certain standard for such programmes. Arrangements were made for special broadcasts, including a multiplex transmission to be broadcast simultaneously by the INR and the RTF, with the collaboration of the regional stations, in connection with the festivities at the end of the year. The following stations were paired off:

Mons: Rennes — Strasbourg — Montpellier —
Marseilles

Liège: Nancy — Toulouse — Limoges — Algiers

Namur: Lyons — Lille — Nice — Bordeaux.

The next Franco-Walloon meeting of the regional stations will be held in Marseilles during the first fortnight in September 1959.

CANADA

CBC Annual Report for 1957-58. — The 22nd annual report of the Canadian Broadcasting Corporation for the year ended 31st March 1958 devotes considerable space to the development of the national broadcasting system, particularly in television. It refers to the extension of the microwave network across Canada, the establishment of six new privately-owned television stations bringing 82% of the population within reach of good service, the increased number of live programmes produced at the main programme centres of Toronto and Montreal, and the coverage of the Royal Visit and the elections. Radio and television programmes in both English and French are described.

The estimated number of Canadian households using television grew to more than 3 million, or 71% of the population. Indications were that on the average families watched for more than 24 hours a week. Despite the sustained increase of interest in television, however, the Canadian public continued to do a great deal of listening to radio, especially in the daytime. It was interesting to note that since the start of television in Canada a total of over 3,200,000 radio sets had been sold—more than 720,000 in 1957 alone, which was a Canadian sales record.

The CBC's income and expense statement for 1957-58 is shown on the gross rather than the net basis of previous years since, in the opinion of the Board of Governors and the Auditor General of Canada, the gross basis more properly reflects the manner in which income is derived and expenses incurred.

¹ Cf *EBU Bulletin* No. 39, page 691.

Operations for the year resulted in an excess of expenditure over income amounting to \$4,968,475 after providing \$2,276,719 for depreciation. Radio broadcasting and integrated services concluded the year with a surplus of \$180,201 while the television service operated with a deficit of \$5,148,676.

The total gross income for the year amounted to \$70,567,216, as compared with \$61,803,188 in 1956-57. Parliamentary grants totalling \$24,345,331 were \$6,095,331 higher than in the previous year but the proceeds from excise taxes on radio and television sets and parts continued to fall, reaching the figure of \$16,831,850, compared with \$18,923,029 in 1956-57. Commercial revenue, which is given on the gross basis this year, shows an increase of \$4,716,351 over the previous year and amounts to \$28,410,514.

Total gross operating expenses in 1957-58 came to \$73,258,972, an increase of \$11,864,327 or 19.3% compared with the previous year. Improved programmes, extended coverage in both languages and the attendant higher payments to the growing number of private stations last year brought the gross operating cost of the television service to \$58,070,145. This compared with a gross operating cost for the television service in 1956-57 of \$46,581,000. Radio costs also rose by \$375,000 to \$15,188,827.

The statement of the International Service expenditures, which are recoverable out of Parliamentary appropriations, shows operating expenditures of \$1,720,231, as against \$1,566,087 last year, and capital expenditures of \$86,437, compared with \$122,798 in 1956-57.

Despite the general increase in expenditure which had been anticipated, the report said that the total costs were still well within range of the \$15 per television family per year (4 cents a day per family) on which the Corporation originally stated that a national system could be set up and maintained.

CEYLON

Administration Report of the Director-General of Broadcasting for 1957. — The operational activities of the services conducted by the Department of Broadcasting showed a net profit for the year 1957 of Rs. 1,157,616, as compared with Rs. 881,818 in the previous year. The following are the main headings of the income and expenditure accounts :

<i>National Service</i>	Rs.
Total net income	2,544,641
Total net expenditure	3,011,185
Net loss	466,544
<i>Commercial Service</i>	
Total income	4,173,794
Total expenditure	2,527,375
Net profit	1,646,419

Publications

Total income	56,338
Total expenditure	78,597
Net loss	22,259

By the end of October 1957, over 10% of the entire population was able to listen to Radio Ceylon. The number of radio licences continues to grow and the annual increase is now estimated at between 20,000 and 30,000. According to information supplied by the Postmaster-General, the total number of licences by the end of December 1957 was 180,036.

During the period under review, the total time allotted to Sinhalese programmes was 58 hours 30 minutes per week, of which 50% was devoted to music, 40.2% to the spoken word, and 9.8% to religion. The general pattern of the Sinhalese Service was radically altered and programmes catering for the various types of listener were arranged in belts throughout the week at times suitable to the majority of the audience for that kind of programme.

The News Section continued to be responsible for the production of five 10-minute news bulletins on six days of the week and four on Sundays.

FRANCE

Outline of RTF Activities during 1957. — The following information has been extracted from an official report describing the RTF's activities in 1957.

Throughout the year in question, 37,550 programme hours were devoted to artistic and cultural broadcasts, 246 concerts were broadcast and the light music production services were responsible for 460 transmissions. There were in addition 99 relays from theatres, 83 French festivals, 302 concerts and gala performances, 38 relays from cabarets, and 94 one-act plays. Recorded music took up 16,477 hours of broadcasting time, providing operatic, symphonic, chamber music, variety, light music and jazz programmes. This represented an increase of 37% over the figures for similar programmes in 1956. During the same period, the RTF sent 9,463 transmissions to 65 countries abroad and 7 overseas. Letters from listeners numbered 191,948.

Light Music in the 1958-59 Season. — During this season, the RTF's Light Music Section proposes to transmit on all three programmes a series of concerts which will consist mainly of new works by French composers. During the past two years, 73 light music compositions of from three to five minutes in length have been commissioned by the RTF and broadcast by orchestras from Paris and the provinces. It has been thought necessary to increase these broadcasts this year. The Music Library in charge of orchestral materials received 37 new works of this type at the beginning of

October, bringing the number of new commissioned works by French composers to 110. The concerts will be given under conductors specialising in light music.

The Light Music Section is also planning 50 transmissions a month on France II with the assistance of various small ensembles, and the broadcasts under the title *Light Music Festival* are to continue with presentations of new works recorded last spring.

1958 Training Course for Young Producers from the Provinces. — The 1958 course was inaugurated in Paris on 4th September by Mr. Arno-Charles Brun, assistant director of the RTF Artistic Services, and will continue for four months. By encouraging and training the young talent which will carry on the work of providing programmes with all the means at the disposal of sound broadcasting, the Artistic Services of the RTF are accomplishing a very special purpose.

Instruction is given in such branches as : organisation of the artistic services, recording, sound technique, public and outside broadcasts, the aesthetics of radio, montage, sound effects, psychology of the listener, history of art and drama, musical illustrations.

New Appointment for Director-General of SORAFOM. — Mr. Robert Pontillon, Director-General of the French Overseas Territories Broadcasting Society (Société de Radiodiffusion de la France d'Outre-Mer — SORAFOM), has been appointed radio expert for information on the Press-Radio-Cinema Committee of the French National Commission for UNESCO.

GERMANY (Federal Republic)

The Radio Lottery's Ten Years' Charity. — The radio lottery, which is now run by the Norddeutscher and the Westdeutscher Rundfunk in conjunction with the Sender Freies Berlin, can look back over ten years of assistance to various charities. We read in *fff-Press* that about 44 million solutions were received from listeners, bringing in the sum of 22 million DM. Of this amount, a total of 7,210,666 DM was returned to the winning listeners and 3.8 million DM was paid in taxes. Expenses were purposely kept as low as possible, leaving a net surplus for the ten years of 9,817,005 DM.

This sum was used entirely for charitable works, a total of 8.32 million DM being given to the welfare organisations of the *Länder* North Rhine-Westphalia, Lower Saxony, Schleswig-Holstein, Hamburg and Berlin. Altogether the sum of 523,000 DM was handed over to benevolent funds for needy writers, artists and performers; German refugees and women returning from Russia were given almost 400,000 DM; and particularly urgent cases of hardship in East, Middle and West Germany received 200,000 DM. The "20% Fund", the disposal of which is decided upon by the NDR and the WDR, placed its allocation of 510,000 DM

at the service of a children's home, a centre for persons blinded by war, rooms for refugees, gifts of radio sets and so on.

GHANA

Report from Radio Ghana. — A brochure published by the Ghana Broadcasting System to mark the inauguration of its new Broadcasting House on 3rd March 1958 by the Prime Minister, Dr. Kwame Nkrumah, furnishes some interesting information about the organisation.

The new building, together with the former broadcasting house, forms the nucleus of the National Service of the Ghana Broadcasting System. The cost of buildings and equipment, including a 20 kW transmitter, was about £220,000.

The broadcasting system is a Government department under the Ministry of Information and Broadcasting which the Government intends to form eventually into a corporation. Radio Ghana broadcasts for 92 hours a week in English and six of the main Ghanaian languages. The gross annual cost of operations is about £375,000 and the annual revenue at present is approximately £150,000, derived mainly from subscriptions to the wired relay system. Net annual cost works out therefore at about £225,000.

Staff numbers 1,115, of whom 183 are in administration, 343 in engineering and 84 in the programme section. There is an engineering training school run by the Broadcasting Department and the head of programme training gives individual instruction to members of the programme section.

The work of preparing programmes for an audience in Ghana is complicated by the use of seven different languages. All important events are covered in at least two languages, English and a local language. Broadcasts to schools were started in 1957 and have been directed to secondary schools, with English as the main subject. It is hoped to carry out experimental broadcasts soon to middle and primary schools. The small news section is responsible for six bulletins a day : two giving home news in English, 2 giving world news in English, and 2 in the Ghanaian languages.

There are 34 wired relay stations scattered throughout the country serving 34,000 subscribers who pay a monthly subscription of 7s. 6d. each.

The peak listening hours in Ghana are 06.00 to 07.15, and 17.30 to 20.30. The audience is a remarkably young one : about 40% are under 18 and about 35% between 18 and 30. Listeners are on the whole well educated and at least 60% of them understand English well. There are usually eight listeners to each set and the total audience is about 600,000.

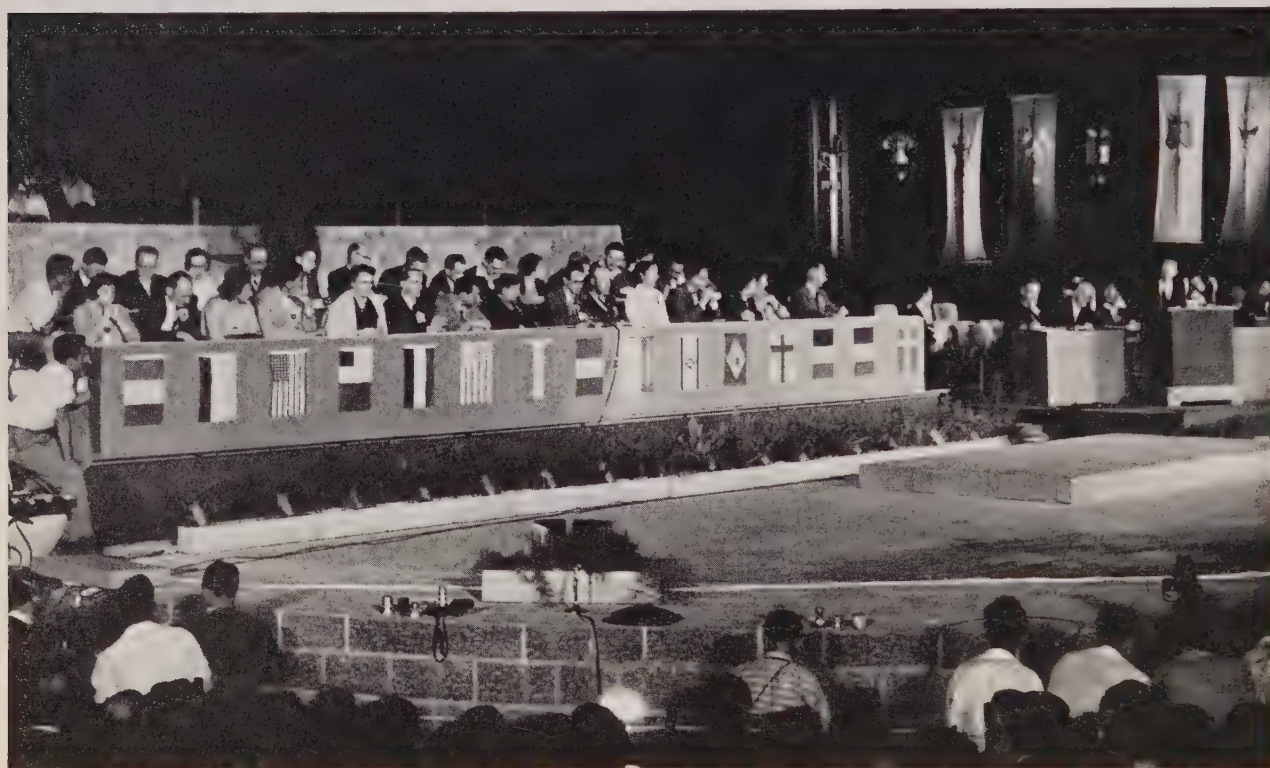
ISRAEL

The First International Bible Contest in Jerusalem — The International Bible Contest sponsored by Ko

Yisrael was held at the Hebrew University Amphitheatre in Jerusalem on the 19th August.¹ It had been conceived as Kol Yisrael's contribution to the Tenth Anniversary celebrations of the State of Israel, and turned out to be, in the words of Mr. David Ben-Gurion, the Israel Premier, "the most important and significant event of the whole year".

The idea was that because the Bible is a source of inspiration, of religious and moral values in most of the

Belgrano; Brazil — Radio Ministerio da Educação and TV Rio; Colombia — Radiodifusora & Televisora Nacional; Finland — Oy. Yleisradio Ab.; France² — RTF, Television; France — Radio, France I; Italy — RAI (Television); Malta — Rediffusion; Mexico — TV Mexico City; Netherlands — NCRV; South Africa — Springbok Radio; Sweden — SRT (Radio and Television); United States — CBS Television; Uruguay — Radio Carve.



THE INTERNATIONAL BIBLE CONTEST IN JERUSALEM

From left to right, the contestants of Italy, South Africa, United States, Malta, Holland, Uruguay, Argentina, Mexico, Colombia, Israel, Brazil, Finland, France (2) and Sweden.

world, and because Israel is the background against which the events of the Bible occurred, it was appropriate for Kol Yisrael to sponsor an international event which would bring the great Book nearer to millions of people.

The plan then stipulated that each country through its national or major radio or television service would conduct a national quiz programme on an elimination basis with the purpose of electing a national winner. Each service was asked to determine for itself the manner and style of its programme and how the winner was to be selected.

Out of the 20-odd countries approached, the following 14 countries and organisations eventually sent their representatives to Jerusalem: Argentina — Radio

The fourteen national champions were brought to Jerusalem by Kol Yisrael and taken on a ten days' tour of the country which stressed Biblical and historical sites. They were a most varied and interesting group of people, nine men (including the Israeli winner) and six women. It so happened that they were almost equally divided according to their faiths and denominations: four Protestants, three Jews, three Catholics, three Seventh-Day Adventists and two Baptists.

In order to give the competitors a comprehensive test and at the same time shorten the main proceedings leading up to the finals, two sessions were arranged, one

¹ See *EBU Review* No. 47, page 21.

² France sent two representatives, as two separate competitions were held there, one on television and one on sound radio.

in the morning before a limited audience which was not broadcast, and the second in the evening before a large public which was broadcast in full. The score of the morning session was carried over to the evening session when, after three additional rounds, the first elimination was effected. In this way the full international character of the evening ceremony was preserved.

Another problem was the question of translation. The contest rules stipulated that each competitor would be asked the questions and would answer them in his own tongue. This divided the fifteen contestants into eight language groups, apart from Hebrew, bringing fourteen translators on to the stage. The president of the jury would ask the question in Hebrew, the Master of Ceremonies would then direct it to the respective contestant, and his interpreter would translate it for him. Sixty seconds were allowed between question and answer. Then the answer would travel back the same way. An unanswered question would be passed on to the next contestant in line until answered. The contestant to answer first in each round was determined by lot.

The jury was presided over by the Deputy President of the Israel Supreme Court. The four other members were two Jewish Bible scholars, the Director of the Pontifical Biblical Institute in Jerusalem, and the Secretary of the Baptist Convention in Israel. (The two latter have a perfect knowledge of Hebrew.) They were aided by a panel of experts.

We then came up against the problem of the live broadcast, which had to cover fifteen contestants, fourteen translators, the jury, an orchestra and choir, the Master of Ceremonies, two commentators and the audience—in all, close to forty microphone points apart from the public address system. This proved physically impossible for our technical resources. Kol Yisrael engineers found a solution, perhaps not very modern but ingenious. They built two small carriages on plastic wheels which moved in grooves along the tables of the contestants and their translators (who sat directly behind them). Each carriage mounted four microphones, two for the broadcast and two for the public address system. When the name of a contestant was called, these carriages were operated by a simple pulley and drawn in front of the respective contestant and his translator. In this way the number of microphone points could be reduced to eleven.

After the four hours' morning session and three additional rounds in the evening, the representatives of seven countries entered the semi-finals. They were: Brazil, Colombia, Finland, France, Israel, Mexico and Uruguay. Another two rounds followed, and three finalists reached the last stage of the contest. These were the representatives of Brazil, France and Israel. They were given three identical questions, with only one contestant at a time on the stage. The final score was then announced—Mr. Amos Hakham, Israel, 42 points; Miss Simone Dumont, France, 29 points; Mrs. Irene Santos, Brazil, 23 points.

The evening session was held before a distinguished audience of 3,000, including the President of the State, the Government, the diplomatic corps and religious dignitaries.

The first prize was a first-century glass jar unearthed at the Beth Shearim excavations in the Jezreel Valley. The second prize was an antique half-shekel coin minted during the Judeo-Roman War before the destruction of the Second Temple. The third prize was a gold medallion struck for Israel's Tenth Anniversary.

The official ceremony and the second part of the contest in the evening lasted from 20.30 hours to 01.30 hours, and were broadcast in full with a break of ten minutes for a news bulletin. (This was not broadcast at the scheduled time, but in the interval before the semi-finals.) After 48 hours a poll conducted by the Israel Institute for Applied Research showed that 1,200,000 Israelis had listened to the five-hour broadcast. This means that 66% of the total population, or 78% of the adult population, crowded round their receivers that night. The ratio for each set in the country was three to four listeners. This was a record audience—by far the largest to listen to Kol Yisrael in the ten years of its existence.

HANOCH GIVTON.

JAPAN

Japan Broadcasting Corporation Report for 1958.

— The illustrated report *NHK in Charts and Diagrams* has again this year been published by the Japan Broadcasting Corporation (Nippon Hoso Kyokai). In addition to the wealth of information on general activities and organisational structure contained in last year's publication which was described in *EBU Bulletin* No. 46 (pages 686-7), there are many new facts about recent developments and future plans.

According to the report, the number of radio stations has increased since last year from 189 to 198—109 in the first network which provides programmes of the lighter sort intended to appeal to popular tastes, and 89 in the 2nd network which broadcasts material of a more serious nature, such as programmes for schools, lecture courses, and educational and cultural programmes. There are now 19 television stations in operation with seven more under construction and scheduled for completion by the end of the financial year 1958. In the field of private commercial broadcasting, there are 88 radio stations and six television stations in operation.

Experimental VHF programmes were started in Tokyo in December 1957 and in Osaka in February 1958. These consist mainly of music at present. A regular service is contemplated and eventually a national network which is expected to cover 85% of the country.

The number of radio licences has risen slightly from 14,591,082 last year to 14,609,751 this year, showing that 81.2% of the population has sets, but the increase in the

number of television licences is more spectacular. The figure has more than doubled in a year and was just under the million mark at 31st March 1958. Television programmes are now on the air for an average of 7 h. 45 mins. per day.

The budget statement for the year ended 31st March 1958 shows the total income for radio to be 13,988,807,000 yen, as compared with 10,784,050,471 last year. This figure includes 11,395,765,000 yen from licence fees and a grant-in-aid of 96,442,000 yen. Income for television, including 3,991,948,000 yen from licence fees, amounted to 7,574,948,000 yen. Total expenditure for the period amounted to 21,433,755,000 yen—13,908,807,000 for radio and 7,524,948,000 for television, leaving radio with a reserve of 80,000,000 yen and television with 50,000,000.

The number of staff employed had risen from 9,000 at the end of 1956 to 9,238 by November 1957.

MONACO

Death of Mr. Jean Antoine. — The death has been announced of Mr. Jean Antoine, artistic director of Radio-Monte Carlo. He was one of the creators of sports reportage in broadcasting. It was in fact his idea in 1929 to start reporting sports events and together with Alex Virot he did the first radio reportage of the *Tour de France* that same year. Mr. Antoine was the son of the celebrated founder of the Théâtre Libre and turned to journalism at an early age. He was editor of *Radio-Cité* and then *Radio 37* before the war and in September 1956 succeeded Florent Fels as head of the Monesgasque station's artistic services.

SPAIN

Broadcasting Statistics for 1957. — During 1957 the average daily transmission time was 10 hours and a half, a rise of 16 minutes compared with 1956. The number of staff employed in the broadcasting services increased from 2,879 at the end of 1956 to 3,766 at the end of 1957. Out of a total of 491,078 hours' broadcasting from all stations, 280,530 hours were devoted to music, 121,890 to the spoken word, 58,776 to retransmissions and 29,882 to commercial programmes. The number of transmitting stations increased during the year from 105 to 196.

UNION OF SOUTH AFRICA

Annual Report of the SABC for 1957. — During this year which marked the 21st anniversary of the South African Broadcasting Corporation the SABC advanced another step towards the ideal of having its own studio premises at each of the main centres. Ever since its inception in 1936, the SABC had had to carry

on its activities in Johannesburg in hired premises, as the studio accommodation leased in Broadcast House became increasingly inadequate. When in the course of 1957 Broadcast House came into the market, it was decided to purchase the building, and full occupation is planned for the end of 1959. The new studio building in Pretoria was officially opened in April.

The total revenue for the year amounted to £1,976,264, and expenditure totalled £1,833,556. Income from listeners' licence fees was £1,418,050 less £172,966 for Postmaster-General's collection charges and Government share of licence fees. The gross revenue from the Commercial Service, after deducting agency commission, was £685,336. Items of expenditure included £817,752 for artists' fees and programmes, £361,085 for engineering, £358,202 for administration and general expenses, £18,084 for listener research, £4,300 for extra territorial broadcast expenses and £8,842 for the rediffusion service to natives. Of the balance of £142,708 the sum of £121,523 was transferred to the Reserve Fund and the remaining balance of £21,185 to the Development Fund.

The Rediffusion Service of the SABC which serves the Bantu population of Orlando and the adjoining townships near Johannesburg celebrated its fifth anniversary in August 1957. The number of "rediffusion homes" decreased in the course of the year because of the removal of some of the population to other townships outside the service area, but at the end of the year there were still more than 11,000 of these homes. On an estimate of six members for the average Bantu family, the listeners therefore totalled about 66,000. All rediffusion programmes were presented in the three main Bantu languages—Zulu, Sotho and Xhosa.

Several significant developments occurred during 1957 in the SABC's Commercial Service, Springbok Radio. Two 20 kW shortwave transmitters at Paradys were brought into operation at the beginning of March and, after a test run, the full national service was opened on 1st May. A special "dawn session" was inaugurated from 05.00 to 06.00 hours, broadcasting music for farmers and shift workers and increasing the total weekly hours broadcast to 130. Thirdly, five regular daily news bulletins were introduced on Springbok Radio.

The Corporation's staff on 31st December 1957 totalled 1,308. The *SABC Radio Bulletin*, the Corporation's weekly programme publication, showed an increase in circulation in the second half of 1957 of approximately seven percent.

UNITED KINGDOM

The BBC's Overseas Offices. — Everyone knows that the British Broadcasting Corporation has a corps of News Correspondents scattered about the world, from Washington to Singapore via Paris and Beirut, whose job it is to gather and report the news of the moment for trans-

mission from London to audiences at home and abroad. What may not be so widely realised is that the Corporation also has Representatives in many countries with a completely different set of duties.

These Representatives run offices in New York, Ottawa (with a sub-office in Toronto), Berlin, Paris, Beirut, Delhi (for India and Pakistan), and Sydney (for Australia and New Zealand). There is too a Far Eastern relay station based in Singapore, whose head is also in effect one of the BBC's Representatives.

What do these people do? Their names are not household words, their voices (with one exception) are rarely if ever heard on the air, they are not meant to hit the headlines. Perhaps it is too easily forgotten in this era of increasing specialisation that the work done by any member of the staff of any broadcasting organisation, whatever his particular job, has but one end product: broadcasts going out from a transmitter. The purpose of these broadcasts may vary. As far as the BBC is concerned home broadcasting falls under one or other of the three headings "information, education, entertainment", while the object of the BBC's external broadcasts has been described as being to give clear, unbiased news, to reflect British opinion in all its shades, and to reflect British culture, institutions and life. Overseas Representatives are all members of the BBC's External Services and one of their functions must be the ultimate promotion of these three aims. At the same time they are representatives of the BBC as a whole and their work may and does directly or indirectly affect the quality of domestic broadcasting too, both sound and television.

These then are their *raison d'être*. How do they fulfil them? Although the emphasis differs in different areas and each office has a host of problems peculiar to itself, many of their duties are common to all Representatives. They are responsible for the general representation of the BBC in the area they cover; liaison with and the negotiation of facilities from local broadcasting organisations; the promotion of interest in BBC programmes, whether transcriptions or live broadcasts to the area; audience research; the recruitment of staff to work in the BBC's different language services; tours of the areas with which they are concerned, sometimes with recording gear; and the inevitable business of running their offices, some of which contain studios used for live news despatches and commentaries or for the making of recordings flown to London for later transmission.

Representatives normally have the help of locally recruited staff. In New York, for example, the Representative and his Chief Assistant are backed up in the Rockefeller Centre "office"—which is in fact a whole series of offices complete with studio and film showing room—by a team 14 strong of programme assistants, engineers and secretaries. In Beirut—another office with built-in studios where large numbers of programmes are recorded and flown to London for transmission in the Arabic Service—there are almost as many staff; and the Middle East Representative has certainly had a busier time than

most of late. In Ottawa, Delhi and Sydney, CBC, All India Radio and ABC facilities respectively are normally used in return for comparable facilities granted in London. In Paris the development of Eurovision and the increasing demands of the BBC's Television Service have recently led to an expansion of staff; many readers may have heard programmes produced in the Paris Office studio and broadcast in the BBC's French Service. The Berlin Office is primarily an extension of the BBC's German Service and the holder of the post here broadcasts regularly in German.

The diversity of their activities makes great demands on the ability as well indeed as on the patience and health of any BBC Representative—and if he is married of his wife too. He may have to haggle with customs officials in the morning about the importation of recording materials, handle a two way exchange programme in the afternoon, and entertain a director general in the evening. He must have at one and the same time the skills of a diplomatist, a radio or television producer, a business manager, a publicity agent, and in some cases a linguist. He must settle scores of local problems on the spot but he must have the judgment to know when to refer a matter to London. And human nature being what it is, even if in fact he has all these virtues, he must never expect anyone to credit him with possessing them.

PATRICK RAMSAY.

BBC Radio Serial Programme Celebrates 2,000 Broadcasts. — The popular programme, *The Archers*, in which the activities of a homely, country family are overheard on five evenings of the week by nearly seven million listeners, attained its 2,000th edition on 26th September. The series has been broadcast on the Light Programme since 1st January 1951 and its total transmission time amounts to 500 hours. There is also a weekend edition which attracts an additional four million listeners. Even the advent of television between six and seven in the evening, during which period the radio programme is on the air, has done nothing to lessen the popularity of the series.

UNITED STATES

Resignation of President of the NAEB. — Dr. Burton Paulu, director of radio and television broadcasting at the University of Minnesota, has announced his resignation from the presidency of the National Association of Educational Broadcasters in order to continue research in European broadcasting. A grant from the Fund for the Advancement of Education makes possible a year's study in the United Kingdom and in Europe.

Frank E. Schooley, director of broadcasting at the University of Illinois, was named president of the Association by the Board of Directors at a special meeting in June to fill the unexpired term of the resigning president

BOOK REVIEWS

The Mass Communicators : Public Relations, Public Opinion and Mass Media, by Charles S. Steinberg. New York, Harper and Brothers, 1958. (One bound volume of 470 pages, price \$ 6.00.)

Dr. Steinberg, who is Director of Press Information for the Columbia Broadcasting System (Radio) and Lecturer in the Communication Arts at New York University, has written an interesting and authoritative study which relates the practice of public relations to the formation of opinion by means of the mass media of communication. It provides the necessary link which the author feels is lacking in earlier individual studies of these phenomena.

Public relations is a comparatively new and somewhat vague field which is not easy to define. According to the writer, it involves the skilful use of the act of communication and its function is "to inform in the interest of creating a favorable climate of opinion for an institution, individual, product, or idea." The book describes how public relations functions and how it is practised, it investigates methods of research used to increase its efficacy, and explores the semantic principles of communication necessary for a proper understanding of the mass media through which public relations techniques operate.

Each of the media—press, radio, television, motion pictures—is considered in its historical context as well as in its general relationship to the act of communication and to public relations. The techniques of publicity, advertising and promotion are explored, and the relationship studied between public relations and propaganda, with some indication of the main ethical considerations involved.

The author's views on public opinion formation are interesting in their insistence on the value it may have in a free and competitive society. What he calls "the art of persuasion" is not to his mind dangerous in a democracy. Informed public opinion, he feels, is sufficiently strong for it to insist that public relations should stick to the truth. Much has already been said about the impact of the press, radio and television on the opinions and behaviour of the public, but what has perhaps not always been fully appreciated is the strong influence the public exerts on all of the media, and this fact is stressed by the author. Public relations endeavours to influence group opinions and actions but no forecast can be made concerning the success of the technique used because of the unpredictable behaviour of the individuals in the group. These techniques, particularly when applied to radio and television, can only be successful, he believes,

if they produce a sense of participation and social obligation, along with some stimulus to action. The "freedom" of the communication media is only relative as public opinion is a restrictive influence, but a free and responsible medium, the author insists, will not hesitate to present conflicting viewpoints and will defend its right to determine what to print, broadcast or film.

The final section gives a number of examples of public relations in action, showing how the problem is approached in the fields of business, human relations and education. The appendix contains a selected bibliography and an index.

Film, Rundfunk, Fernsehen. Edited by Lotte H. Eisner and Heinz Friedrich. Frankfurt/Main, Fischer Bücherei, 1958. (362 pages, price DM 3.30.)

Volume 9 in the collection *Das Fischer Lexikon*, a series of "encyclopaedias" on a wide variety of subjects, presents in the form of a dictionary a detailed picture of radio, television and the cinema in Germany and other parts of the world. Its purpose is to present facts clearly and objectively, not to state preferences or take sides on any of the issues involved.

Information is given in the form of articles set forth in alphabetical order and written with the help of a number of eminent contributors. They deal in considerable detail with the technical, economic, administrative, legal and artistic aspects of the three media, and include descriptions of the organisation of broadcasting in Germany, the legal bases of broadcasting in the various countries with details concerning the different systems in operation, the impact of television, the various types of programmes broadcast and the departments which supply them, reception problems, and the basic principles, operations and future development of television.

The emphasis is of course on the German aspect of the subject but not to the exclusion of developments in other countries which are mentioned when they have a direct bearing on the matter under discussion. With its useful bibliography for further reading, its index, technical diagrams, and photographs, this is a valuable work of reference and source of information.

Jahrbuch der christlichen Rundfunkarbeit. Edited by Hans-Werner von Meyenn and Gerhard Prager. Witten/Ruhr, Luther-Verlag, 1958. (204 pages, price DM 8.60.)

This is the first edition of a German yearbook on religious broadcasting in Germany and the rest of the

world. Its purpose, as stated in the preface, is to try each year to show the most important developments that have taken place in the field of religious broadcasting. It is hoped that the yearbook will come to be regarded not merely as an anthology and a work of reference, but as an important source of documentation on radio and television and the Christian faith in our time.

Besides articles on the tasks and problems of religious broadcasting throughout the world, the situation in Germany, the Evangelical Academy for Radio and Television, and types of radio and television criticism, the book contains important contributions, some of which are the texts of speeches delivered at religious conferences, from such well-known personalities as Pastor Martin Niemöller, the head of the Hamburg Evangelical Academy, Gerhard Günther, and the writer, Friedrich Dürrenmatt.

An appendix contains a useful index of religious organisations and institutions, transmitters and programme companies.

The yearbook is a new departure in the field whose progress should be watched with interest.

SHORTER NOTICES

The Broadcasting and Television Year Book, 1958. ed. L. Blanket, published by Greater Publications Pty Ltd., Derwent House, 136 Liverpool Street, Sydney. (277 pages, price £ 1.17.6 Aust.)

This is the first edition of a year book condensing into handbook form all the information broadcasters, advertisers and the general public are likely to need about radio and television in Australia and the industries that serve them. In the words of the Postmaster-General in his foreword: "This book is the most comprehensive collection of radio and television data yet brought between two covers in Australia..."

The mass of information contained in the year book is not otherwise easily obtainable, and something of the kind has long been required in Australia.

Hombres y Obras de la Radio, by Anibal Arias Ruiz. Published in the *Coleccion Mundo Mejor*, Series II, Vol. 5, by Euramerica, Ortega y Gasset 55, Madrid, 1958. (200 pages, price 35 ptas.)

This little book has been written by Anibal Arias in collaboration with the "Asociacion Catolica Nacional de Propagandistas" and "Propaganda Popular Catolica". He explains the work done by some of the Catholic organisations and individuals whose aim is to spread Christianity by means of the radio in different parts of the globe. Within these pages are to be found accounts of the history and activities of the international Catholic organisation UNDA, some national bodies

such as the Centro Catolico Radiofonico Italiano, the Dutch Katholieke Radio Omroep and Radio Renascença of Portugal, and the "radio schools" run for the Colombian agricultural workers by Father Salcedo of Sutatenza. The experiences of a few of the men who have made their voices heard over the air in the service of the Church are also described.

Parents, Children and Television, published for the Independent Television Authority by H. M. Stationery Office, London (price 3s. 6d.).

This is the report of a survey concerned with children's leisure activities, whose purpose was to find out in particular what parents' attitudes are to children's television viewing. Matched samples were chosen of parents in the 30-49 age-group having children aged 5-13, with and without television in the home. The report does not claim to measure the impact of television on children, but what parents think the impact is.

The general impression is that television is on the whole a good thing for children and the programmes at present offered both by the ITA and the BBC are either very good or reasonably good. Parents who disapprove seem more concerned with the physical than the intellectual effects of the medium, and no evidence was found of widespread anxiety about the results of scenes of violence upon children. The largest of all the majorities recorded showed that parents agreed that television made children 'better informed and more knowledgeable'. The report is being laid before the ITA Children's Advisory Committee in an attempt to make a little order out of the chaos of conflicting opinions about television and children.

Children and Television — Some Opinions. Published by the National Association for Better Radio and Television, 882 Victoria Avenue, Los Angeles, 5 (price \$ 1).

This 32-page booklet is a collection of views expressed by some 50 leading American personalities and associations on the influence of television on children. Most of the opinions published are concerned with the effects of violence on young minds and the resulting brochure is a sobering indictment of crime programmes on American television.

Graphic Communication and the Crisis in Education, a special issue of the *Audio-Visual Communication Review* published by the National Education Association, 1201 Sixteenth St., Northwest, Washington 6, D.C. Vol. 5, No. 3.

A report on the discussions of a group selected to represent a wide background of scientific and practical achievement on the subject of graphic communication in education. The main purpose is to show how some of the acute problems of education can be solved by the

much wider use of such graphic techniques as the photograph, the filmstrip, the motion picture and television.

Radio Lausanne 1957, a roneographed brochure of some 50 pages, published by the Fondation Romande de Radiodiffusion, Lausanne.

In a foreword to this survey of the various activities of Radio Lausanne in 1957, Mr. Jean-Pierre Méroz, the director of the studio, writes that the purpose of the brochure is not simply to draw up a report, but to testify to the efforts of all the collaborators of Radio Lausanne in the four main departments—news and information, drama, music and variety—to maintain and constantly renew the level of interest of their programmes. The heads of each of these departments report on their activities last year, and there is also a lively description of the Second Programme.

Problèmes et Solutions d'Équipement Radiophonique dans les Territoires d'Outre-Mer, by Jacques Poullin. Extract from the revue *Industries et Travaux d'Outre-Mer*, June 1958.

This is an interesting brochure written by the head of equipment services of the French Overseas Broadcasting Service (Société de Radiodiffusion de la France d'Outre-Mer—SORAFOM) describing in turn the establishment of the network and the technical equipment for the production and broadcasting of programmes. In his foreword, the author observes that while the French Overseas Broadcasting Service, which is in charge of broadcasting equipment for the overseas territories, did not require to introduce any innovations in the field of pure technics, it had to choose economic solutions to the problem of establishing its network that were adapted to under-developed areas with limited operating funds. The SORAFOM has chosen to provide a first-class service in urban areas (generally the capitals of the territories), and a second class service, which is however adequate, in all other zones.

ARTICLES

Cahiers d'Études de Radio-Télévision, No. 18. Flammarion, 20 rue de Vaugirard, Paris 7^e.

The opening article in this number is a study by Mr. Gabriel Delaunay, formerly Director-General of the RTF, entitled *La Radio-Télévision, Puissance Politique*. It deals with the place of radio and television in our modern world, the French influence on the media, and the relations between democratic Government and a national radio system.

Musique et Image, by Robert Francès, is yet another in the series of investigations into the significance of music as a descriptive and psychological semantic theme.

Under the title *Un Pas de Plus vers une Communauté Européenne de Programmes de Radiodiffusion*, Mr. Marcel Cazé describes the results achieved towards the removal of legal obstacles hampering exchanges of radio and television programmes by the committee of experts which met in Strasbourg in January 1958.

Vers une Poésie Radiophonique, by Marina Scriabine, recommends a non-theatric conception of poetry reading in radio, completely different from the essential task of the actor which is to create a character.

Bernard Blin continues his interviews on the artistic future of television. François Chatel, the RTF television director, answers the questions in this number.

The section *Informations et Documentation* contains an account of the meetings in February at the Regional Centre of Pedagogical Documentation of Lyons to discuss educational television; a study of television in Yugoslavia; a description of the NHK Radio and Television Culture Research Institute; an account of the use of animated figurines on French television; a report on the international training course for producers in October 1957 organised as a result of the discussions at the EBU meetings in the autumn of that year; and some information concerning certain Belgian reviews published for young people.

This number ends with general information, some details of the courses of the Centre d'Études de la Radiodiffusion-Télévision Française, and a bibliography.

Bulletin Intérieur de la RTF. July 1958. *La Route et la Radio*.

The author of this article remarks that in a world of growing social obligations man is tempted in his hours of leisure to flee the familiar scenes of his daily servitude. The motor vehicle has thus become for many the symbol of escape. There is another category of traveller however for whom the motor is the symbol of his profession—the long-distance lorry driver, for example, who is on the roads all night long.

In the interest of the latter, and of all motorists, *France I* gives indications from 19.45 h. onwards of road conditions for the night, the weather forecast, and possible dangers to watch out for. Sometimes drivers have special problems which the RTF endeavours to answer. Before the broadcast, motorists may telephone for advice on any matter, and in this connection the French radio can call in the help of the National Federation of Automobile Clubs.

A special programme broadcast on Saturday under the title *Routes en Direct* is intended to cope with the general exodus at the weekend particularly dear to Parisians. The programme gives the weather forecast and indicates places where traffic is likely to be most dense. At the time when motorists are returning, special instructions are broadcast to guide them home by the easiest route. This particular service has been in existence in France for three years and has proved to be extremely useful.

LEGAL SECTION

CIVIL AND CRIMINAL LIABILITY AT SWEDISH LAW FOR WRONGFUL ACTS COMMITTED IN BROADCAST AND TELEVISED PROGRAMMES

by SVANTE BERGSTRÖM

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Swedish radio programmes — and for that matter the television programmes too in the last two years—undoubtedly play a very big part in Swedish community life, but they also come in for continual critical scrutiny by public opinion. They are scanned daily by the leading papers; they are one of the pet topics for “Letters to the Editor” and from time to time they provide material for controversy in the editorial columns of the daily and weekly Press. Complaints about the programmes are looked into by a special State-appointed Committee called the “Broadcasting Board” (*Radionämnden*), which upholds or dismisses them and publishes its findings in the newspapers. It sometimes happens that the issue is taken on to the floor of the *Riksdag*, generally in the form of motions put down by members of Parliament concerning programmes to which they take exception.

Being thus the butt of critical public opinion, the Swedish Broadcasting Corporation (*Sveriges Radio AB*, which we shall refer to as “the Corporation”) might be expected to be involved fairly frequently in litigation with private persons or forced to meet their claims for compensation. But this is by no means the case. People criticise the programmes, challenge their veracity, accuse them of being biased or out of place in this or that respect, but it is extremely seldom that it is asserted that they have involved an infringement of someone’s rights entailing civil or criminal liability. The only case of this nature that I know of (and which was won by the Corporation) related to whether the Corporation could use phonographic records in its programmes when the manufacturer had forbidden their use for broadcasting purposes. On the whole there are astonishingly few cases where well founded complaints have been lodged against the Corporation, though there have been rather more that turned out to be unfounded and were summarily dismissed.

There is some likelihood, however, that infringements will increase in frequency up to a point. The number

of hours on the air is constantly rising, and with it the mathematical probability of infringements being committed. In addition there is at present a trend towards certain classes of programmes that carry with them a particularly high risk of infringements. To mention only a few, there are the televised programmes, which probably entail a greater risk of infringements than sound radio; there is also the presentation of current events and controversial issues under the heading of consumer guidance, labour news or other debatable subjects. These programmes, incidentally, are gaining ground on account of the vigorous encouragement they receive at the hands of the public.

The question of civil and criminal liability for infringements and torts arising out of a programme has also attracted attention in wider circles, and in fact it was dealt with fairly comprehensively by the then Minister of Justice in reply to a question in the *Riksdag* in 1954. The Minister considered that the most sensible course was for the Corporation itself to look into the matter. The Corporation then initiated studies on the question of civil and criminal liability arising out of infringements and torts committed in broadcast and televised programmes, studies which of course centred around the most important practical question, that of the liability of the Corporation itself. It is the principal findings of this enquiry that we shall now discuss.

The legal status of the Swedish Broadcasting Corporation and its consequences as regards liability

Naturally enough the liability of broadcasting companies varies very widely from one country to another according to the legal status of the companies and the legislation of the countries in which they operate. For this reason it will be helpful to start with a brief account of the somewhat unusual legal status of the Swedish broadcasting organisation and its bearing on liability.

In Sweden the State is the owner of all transmitters that broadcast radio and television programmes to the general public. Through a government department, the Telecommunications Board, it is responsible for putting the programmes on the air, and for collecting the licence fees on receiving sets which persons having sets in their possession are required to pay, the cost of the licence being fixed by the State.

The programme service is entrusted to *Sveriges Radio AB*, which is outwardly an ordinary private limited company. The reason for choosing this form of incorporation was to emphasise the Corporation's independence of the State as such. The Corporation's stock is held by three classes of shareholders: the Press, representatives of private business, and a number of non-profit-making organisations such as workers' educational associations, religious and trade union bodies, temperance societies, and the co-operative movement. The Chairman of the Board of Governors and one-half of the rest of the Board are appointed by the State, the other half being elected by the shareholders. In this way the State, which has no equity holding in the Corporation, has a majority of the voting strength on the Board of Governors through its appointed representatives. As in other companies, one of the functions of the Board of Governors is to appoint the managing director, also known as the Director of Broadcasting (*radiochefen*), who in practice enjoys considerable independence in his choice of programmes.

Apart from purely routine matters the activities of the Corporation are based on an agreement with the State on the subject of radio and television programmes. This agreement may be defined as an ordinary contract at civil law which provides that the State, as the owner of the transmitting facilities, will commission the Corporation under a special type of contract to look after the programme side, in return for which it will receive a certain percentage of the licence revenue on receiving sets to finance its operations. At the present time this contract is for a term of five years; it may be terminated or extended on the expiry of this period or cancelled in accordance with special rules in the event of a breach of contract. The Corporation thus does not have a *de jure* monopoly, though it does *de facto*.

Apart from this agreement, which contains a few very succinct clauses on the subject of liability, there are no special provisions of law governing the ordinary operations of the Corporation or its liability under civil or criminal law. This explains why in principle the rules governing liability in general are taken also to apply to the activities of private companies comparable to the Swedish Broadcasting Corporation. Often, however, it is no easy matter to say just what these rules are, because the Corporation's programming work is so much in a class by itself that it is well-nigh impossible to find analogies for it in other fields.

We must now distinguish between the rules that are part of the law on *contractual liability*, i.e. that relate to acts constituting a breach of contract, and those that

belong under the heading of *non-contractual liability*, the reason being that the law of liability varies considerably according as the person aggrieved by the wrongful act is under contract to the Corporation or not. Non-contractual liability can further be divided into liability at criminal law and liability at civil law. In the nature of things contractual liability comes under the head of civil law, and consequently it does not normally attract a punishment, but only civil remedies such as damages and rescission of the contract. It may happen that a breach of contract is accompanied by an offence under criminal law, and this applies in particular in the field of copyright. Nevertheless, liability under penal law is considered as being on the whole a branch of non-contractual liability.

Contractual liability

The distinctive feature of contractual liability is that it is actionable only against a person who is a party to the contract in question. In the sort of contracts that are likely to be broken in the course of a programme the only party on the broadcasting and television side as a rule is the Corporation itself, and hence the Corporation alone assumes contractual liability.

A legal person such as the Corporation becomes a party to a contract in two ways. The first is when a *legal representative* of the Corporation, who will generally be the Director of Broadcasting, concludes a contract in the name of the Corporation.

The second way in which the Corporation can acquire the status of a party to a contract is when an *authorised agent* enters into a contract on the Corporation's behalf, when acting within the limits of his powers. The agent may be armed with a power of attorney given in the normal way. In the nature of things, however, the majority of contracts relating to programmes are entered into somewhat informally, without special authority to that effect being given; in such cases the capacity of the agent to contract is based solely on the powers attaching to his official position. Persons thus acting in virtue of powers attaching to their official position may be (a) officials employed on programming, and (b) those who, not being permanent employees, nevertheless perform duties which would normally be the responsibility of officials, a typical example being free-lance programme producers. In the Corporation's dealings with the outside world it is hardly possible to tell the difference between the two categories as regards their authority to act on behalf of the Corporation; an outsider who is approached regarding a programme will not normally be held to be under a duty to satisfy himself as to whether the other party is in the permanent employ of the Corporation. The Corporation can only get out of a contract in those rare cases where its agent has exceeded his authority (in virtue of his instructions or of established custom) to enter into commitments on behalf of the Corporation. In such a case the agent assumes civil liability towards the third party.

It is true that contractual liability can be alleged only by a party to the contract, but this limitation of liability is offset by the fact that the party to the contract is largely answerable for the proper performance of the contract, even if he cannot be held to blame for non-performance of the contract in whole or in part.

It goes without saying that each party to a contract is answerable for his own faults, i.e. acts tainted with *dolus* or *culpa*. Among the faults that can be ascribed to a legal person are those which can be blamed on the "management", meaning in general the board of directors, a member of that board or a managing director who is not a member of the board. As far as programmes are concerned this would mean, in the case of the Swedish broadcasting organisation, the acts of the Director of Broadcasting and, in exceptional cases, those of the Board of Governors or of an individual member of the Board.

For the rest, the precise extent of the Corporation's liability depends on the rules of liability that are customarily associated with a particular type of contract, apart from anything that may be stipulated in the contract in question. One can, however, take it that the Corporation will generally be liable for acts attributable to members of its regular staff or to persons whose status is comparable to that of the regular staff, as explained above.

Liability extends not only to *positive acts* committed by persons thus in the employ of the Corporation but also to *faults of omission*. The typical case is where an employee, by giving inadequate or wrong instructions or by neglecting to exercise the necessary supervision, causes a third party to injure the other party to the contract in the course of a programme.

On the other hand the Corporation will not ordinarily be held responsible for other wrongful acts committed by third parties in the course of a programme. However, there are probably some exceptions to this which have their origin in custom or other special circumstances, apart from any obligations that may have been assumed expressly, though such exceptions will be relatively few. Similarly the Corporation will not, unless otherwise stipulated, be liable for the non-performance of part or all of a covenant as the result of a fortuitous event, e.g. inclement weather or atmospheric disturbances.

The liability falls on the Corporation as such, and not on any individual member of the management. The Corporation will, however, usually have a right to recover from its employee whose negligence was the cause of the breach of contract, though this right is probably worth more in theory than in practice.

Having thus explained the practical implications of contractual liability, we shall now comment briefly on various contracts to which the Corporation is a party.

Its agreement with the State is of special significance. One particularly noteworthy clause in this agreement is that which states that the Corporation undertakes that its programmes shall not infringe the rules of private law. A person who has been aggrieved in a matter of private

law by a programme may always sue the person immediately responsible, i.e. the producer of the programme. If the aggrieved party is bound to the Corporation by contract, he or she may also sue the Corporation. The fact remains that the majority of persons injured will not be under contract to the Corporation, for the existence of a contractual nexus cannot be inferred merely from the licence to use a receiving set on payment of a fee, particularly in view of the fact that the Corporation is in no way implicated in the issue of the licence or the collection of the licence fees. As will presently be seen, such members of the public can only sue the Corporation in tort within somewhat narrow limits. It may be wondered whether the clause in question could be construed as a stipulation for the benefit of a third party whereby the Corporation undertakes to indemnify third parties who might suffer damage in a programme, even if no damages would be payable to them under the ordinary law of torts, but a study of the origin and application of this clause shows that it was not intended to be interpreted in this way. The clause can only be taken as establishing the fact that the Corporation has given the other party to the contract (the State) an undertaking that it will take care that no infringement of private law will be committed in its programmes.

The structure of liability to the State as the result of a violation of civil law depends entirely on the intentions of the parties to the contract. Proceeding on this premise we can say that by and large the Corporation's liability consists of an obligation to abide by the custom which has grown up over the years, e.g. the "vetting" of manuscripts or the prior recording, playback and monitoring of a programme when this is technically feasible, and the implementation of a personnel policy calculated to reduce the likelihood of violations of civil law to the minimum. There is, indeed, every reason to believe that the present organisation of the Corporation generally reflects what the parties had in mind when they signed the agreement. There have been no signs that the State has ever found fault with it, either during the currency of the agreement or when extending or amending it; and a spokesman for the Government, the then Minister of Justice, stated in 1954 in answer to the question mentioned above that any amendment to the law to introduce special rules dealing more strictly with the Corporation in this matter would doubtless have the effect of "hobbling programming activities in a most unfortunate way". It would become impossible to broadcast debates and extempore programmes without first recording and monitoring them, and the Minister added that this type of activity in general would of necessity be far less flexible than at present. This statement clearly shows that it is in the interests not only of the Corporation but also of the State, as the natural representative of the public, that programme planning should not be pinioned down by increased liability and the stricter supervision that this would entail.

In practice, therefore, it can be said that transgressions

against the canons of civil law in the course of a programme cannot be regarded as breaches of the contract between the Corporation and the State, apart from those cases in which the Corporation has failed to observe the accepted procedure in the programme service as regards the instructions it has to give and the other supervisory functions it has to perform. Besides this, it is hardly practicable for the State to enforce its remedies for a breach of contract in an action at law. It is, indeed, hardly conceivable that the State would sue for damages which would have to come out of the public funds allotted to the Corporation, and which, in the last resort, would come out of the pockets of the radio and television audience, in other words the community at large. Cancellation of the contract is not of much use as a remedy, either, except in quite exceptional circumstances, e.g. if there is a revolutionary overthrow of the political régime, a possibility that is about as remote as anything could be in Swedish political life. Much the same applies to another similar measure the State could take to redress a breach of contract, that of taking the programme service out of the hands of the Corporation after terminating the contract in the ordinary way. If it is a question of bringing home the blame, the most obvious course is for the State to use its influence on the Board of Governors to remove the senior executives of the Corporation.

As well as the agreement between the Corporation and the State there exists a heterogeneous fabric of contracts which have a bearing on the subject of liability with which we are concerned, even when they are contracts entered into quite informally by subordinate officials. Such are the agreements with writers, composers, performers, publishers, copyright protection societies, lecturers, readers, etc., or with other classes of collaborators such as firms that have promised to co-operate in consumer information programmes, organisers of religious observances and concerts, promoters of sporting events, firms that have authorised the Corporation to broadcast from a factory, a theatre or a music-hall; there are also the agreements with owners of works of art or other objects shown on television or otherwise used in a broadcast or televised programme, and with the competitors in various broadcast contests.

One of the wrongful acts constituting a breach of contract involving liability is the omission to see that the activities of the various departments of the Corporation are so co-ordinated as to ensure the proper execution of the contract. The typical example is where an official of the programme service negotiates with a third party and enters into a contract with him, whereas an official of another department, unaware of the existence of the contract, takes action independently that is at variance with the agreed provisions.

In all probability the remedy which would be sought by persons contracting with the Corporation for such breaches of contract would consist mainly of damages. If, however, the contract is for services to be rendered over

a period of time, e.g. participation in a series of programmes or permission to broadcast commentaries on a series of sporting events, it may happen that the aggrieved party will find it to his advantage to cancel the contract as regards the services that are still to be rendered. It is submitted, however, that the right of cancellation presupposes as a rule a somewhat serious breach of contract.

Non-Contractual Liability. Liability under Criminal Law

The wrongful act which causes injury in the course of a programme to a person not under contract to the Corporation may be a criminal offence, a felony or misdemeanour. The offence renders the wrongdoer liable to punishment, but it also often renders him civilly liable to pay damages. The obligation to pay damages in respect of a criminal act will be discussed later, in conjunction with invasions of the rights of another, for which the only form of redress is damages.

From the practical point of view the most important offences likely to be committed in connection with the programmes are undoubtedly *defamation* and *infringements of copyright*. Other types of offences occur only sporadically in this field.

Under Swedish law an act must in the majority of cases be tainted with *dolus* before it will entail a penalty. As far as broadcasting and television are concerned, the penalties which may attach to acts tainted with *culpa* are probably without importance except in the case of infringements of copyright, which we shall leave aside for the time being. The general principle that an *error juris* does not give acquittal when the act was committed intentionally is of considerable practical importance; all it may do is to make for a light sentence. Ignorance of the law is no excuse, and an official of the programme service who allows a monitored programme containing defamatory matter to go on the air cannot plead in his defence that he was unaware that such words were prohibited by law. On the other hand he can, of course, exculpate himself by pleading an *error facti*, i.e. a mistake as to the circumstances of fact, e.g. by not understanding the meaning of a defamatory allusion made in a programme.

The law divides the persons contributing to an offence into three classes, the principal, the instigator and the accomplice or accessory. It is particularly difficult to prove complicity in an offence, and this is particularly true in the case of acts of omission, for instance neglecting to take action to obviate injury to a third party in a programme, or not satisfying oneself that a given programme will not cause damage to anyone. Offences of this nature are naturally of outstanding practical importance for the staff of a broadcasting organisation. Generally speaking it can be said that omissions are treated less often as offences under criminal law than as breaches of contract. As stated above, it is essential that the offence be tainted with *dolus*. The *culpa* accompanying an offence is thus not punishable. But when can an omission be held to be tainted with *dolus*?

In the first place it is punishable if one is entitled to regard the person remaining passive as being under a duty to prevent the offence, and if the omission with which he is charged in a given case approximates to an act of commission; this is the position that arises when an official responsible for the programme has read a manuscript or heard a recording containing tortious matter and does nothing to prevent the programme from going on the air as it stands. The same applies when a higher official, after being consulted by his subordinate, allows the programme to be broadcast.

On the other hand, there is no delictuous omission if the person in question has taken steps to correct the programme but the desired result has not been achieved owing to carelessness, as when portions of a tape recording that contain defamatory matter have not been cut out for lack of sufficiently explicit instructions.

Another kind of omission occurs when somebody neglects to monitor a programme or to give the necessary instructions to those taking part in a programme. It is rather unusual for an omission in this class to be punishable. One such exceptional case is when an official of the programme service intentionally refrains from checking a programme, for example when he feels sure that the programme contains libellous statements, but is loath to have to censor some influential figure appearing in the programme. Another exceptional case arises when the official in question does not know for certain that such statements will be made, but there is reason to believe that he would have done nothing to prevent the programme from being broadcast if he had known it for a certainty (*dolus eventualis*).

This marks the boundary of the field of punishable misdemeanours, i.e. of criminal liability, and we overstep this boundary when we come to the border-line case: the official in charge of a programme runs a definite risk when he fails to monitor a programme, but it can be assumed that he would have forbidden it if he had really known that it contained something libellous ("wilful" *culpa*). An omission of this kind amounts to no more than a breach of the contract with the State.

As a legal person the Corporation cannot be prosecuted on a criminal charge, and proceedings can only be taken against the perpetrator of the offence himself. Thus the Director of Broadcasting, for example, cannot be punished for the felonious acts or misdemeanours of his subordinates. The penalty, therefore, cannot be shifted from the wrongdoer on to someone else.

As has been mentioned earlier, infringements of copyright are punishable, even if the offence contains only the element of *culpa*. Complicity tainted with *culpa* is punishable in like manner. There is some justification for the view that Swedish law is somewhat exacting regarding the care that must be taken to ensure that copyright be not infringed. The rules of liability at criminal law for copyright infringements are therefore particularly stringent, and may even in certain cases extend, for instance, to both the Director of Broadcasting and the

head of a department as well as the subordinate official in charge of the programme who is the proximate infringer.

Non-Contractual Liability. Civil Liability

In the field of non-contractual liability, the damages awarded for certain torts are unquestionably the most important consideration for broadcasting and television. If private interests have been trespassed on by an infringement, the resulting damage must be made good by the guilty party. If there are several guilty parties they are jointly and severally liable and consequently the damages may be paid by any one of them. An official who has checked a recording may be required to pay the whole amount of damages, and it is up to him to get himself reimbursed by those jointly liable with him in respect of their share of the blame.

But is it possible to shift the liability for damages in respect of a tort on to a person who is not within the group of punishable persons, and in particular on to the Corporation? The decisions of the Courts on the civil liability of a company tend to show that a company may be held civilly liable for wrongs committed by its "management" in the course of their activities. As against this, there is generally speaking no basis in the law or the precedents of the Courts for saddling the Corporation with the civil liability for a wrongful act committed by a person in its employ but not a member of the management.

To this, however, copyright infringements are an exception: such infringements, even when committed in good faith, may involve civil liability, which is limited under present law to the amount of the damage and profits, in a Bill on the right to fair compensation. Up to the limit thus set the Corporation may be answerable for the civil liability incurred by its staff or by employees who are on a like footing.

It is true that the present trend in jurisprudence is to widen the liability of undertakings whose activities involve heavy responsibilities or dangers, independently of the statute law. The Swedish Broadcasting Corporation is undoubtedly one such company, the more so because it is tantamount to a *de facto* monopoly. Up to the present, however, this extension of liability has only been invoked in cases concerning physical injuries or damage to a specific object; and since injuries of this kind are practically unknown in connection with the invasions of private rights that may be involved in broadcast or televised programmes, it is hardly likely that the Courts will venture, without having some legislative authority to rely on, to extend the limits of civil liability for a broadcasting organisation beyond what is prescribed in the law as it now stands.

Another case of non-contractual civil liability occurs where damages are the only remedy available. In the normal field of broadcast and televised programmes the legislation under which claims for such compensation can be brought is limited to the law of copyright, as

explained above. Case law likewise affords no authority for compensation claims of this nature. Consequently, once one leaves the province of criminal law, there is to all intents and purposes exoneration from liability, and this applies not only to acts attributable to negligence but also to those committed intentionally. There is thus no civil liability in respect of complicity through carelessness, e.g. that of an official in the event of libel. Acts of competition that are not at variance with the penal provisions of the law on unfair competition (which in Sweden is remarkably restrictive in this respect) are not actionable civilly, and the same is true of various kinds of criticism, deliberate or otherwise, which do not qualify as defamation. If a private person suffers injury to his business or his reputation because a statement not of a delictuous nature is made in a programme, there are thus as a rule no legal grounds on which he can bring an action

for damages against the Corporation or a person in the Corporation's employ.

We may perhaps conclude by saying that it appears from the enquiry that under the law as it now stands the liability incurred by the Swedish Broadcasting Corporation or its servants and agents in respect of wrongful acts and offences committed in broadcast and televised programmes is relatively limited, perhaps more limited than many imagined. Hitherto, however, no one has raised any objections, and no responsible suggestions have been made to extend the scope of liability by legislative process; moreover, there is nothing to indicate that any action on the subject is called for, particularly if one bears in mind that the Corporation will doubtless do everything in its power, under the present system, to tighten up still further its precautions against offences and infringements.

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PROTECTION INTERNATIONALE DES « DROITS VOISINS »

Fondements et Principes d'une Convention Multilatérale

Préface du Dr h.c. Bénigne Mentha

Un volume in-8° (1958) - Prix : 240 francs belges

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NEWS AND INFORMATION

COUNCIL OF EUROPE

Committee of Legal Experts on the Exchange of Television Programmes. — As reported in the *EBU Review* for February (No. 47, p. 45), the Council of Europe convened a Committee of Government Experts last January in Strasbourg for the purpose of examining means of suppressing the legal obstacles pertaining to copyright which stood in the way of exchanges of television programmes. At that meeting the Committee finally adopted two series of recommendations; the first series, addressed to the parties concerned, was directed to establishing an internationally agreed dividing line between *petits droits* and *grands droits*, while the second contemplated the establishment of a European agreement or "arrangement" facilitating exchanges of television films between the various countries.

This Committee met again in July 1958 in Paris with the same membership as previously reported, and continued its deliberations on both these questions.

On the first subject, that of the delimitation of repertoires, the Committee took note of the fact that the music publishers accepted points 2, 3 and 4 of the first series of recommendations. These points, it will be remembered, relate to choreographic works, choral works and cinematographic works used in television. With regard to points 1 and 5, the Committee of Experts noted that negotiations were still in progress, and that there now seemed to be a definite possibility that an agreement on the latter two points, namely the length of excerpts and songs, might be reached at an early date by the parties concerned.

As regards the second item on its agenda, international exchanges by means of television films, the Committee drew up the text of a draft European Agreement and recommended that it be sent to governments for signature. The sum and substance of the Agreement is a presumption that, in the absence of any contrary or special stipulation, a broadcasting organisation making a television film is entitled to license other television organisations to "exploit" it for television. However, in order to keep the Agreement within the framework of the Berne Convention, certain copyrights are expressly reserved, including the copyright in literary, dramatic or artistic works from which the television film is derived and the copyright in a musical work, with or without words, accompanying the film.

It is of interest to note that the Permanent Committee of the Berne Union, to which reference will be made below, raised no objections predicated on the Berne Convention to the implementation of the Agreement

when the subject of this instrument was brought up at its recent session.

It is to be hoped that in the interests of exchanging filmed programmes the Governments concerned will take early action to ratify.

UNESCO — BERNE UNION

International Protection of Ancillary Rights. — After governments had been consulted on the two drafts of an international Convention for the protection of performers, record manufacturers and broadcasting organisations some forty replies were received by the three intergovernmental organisations concerned, UNESCO, the Berne Union and the ILO. Several governments voiced their misgivings at having two drafts so different in approach and wording and suggested that a further Committee of Experts should be formed by the three organisations to work out a single new draft, so as to make the proposed Diplomatic Conference a complete success. The obvious next step was for the three organisations to resume negotiations with a view to setting up the Committee of Experts called for by the governments.

Talks between the Directors-General of UNESCO and the ILO and the Director of the International Bureau of the Berne Union began again last July, at a meeting arranged in Geneva. On this occasion they could but declare that the efforts to secure international protection for ancillary rights involved problems pertaining primarily to copyright or cognate rights on the one hand, and economic and social problems on the other. As to the first aspect they were of the opinion that it was a matter for the Berne Union and UNESCO, whereas the second was the province of the International Labour Organisation. Under these circumstances the three Directors held that it was necessary to envisage framing two separate international instruments corresponding to the respective jurisdictions of the international organisations concerned.

As the result of this meeting officials of the three Secretariats conferred on the manner in which the policy decision of the Directors could be carried into effect, particularly with respect to the dividing line between the fields of the proposed instruments. A veritable delimitation plan was thus drawn up. According to this, the Berne Union and UNESCO should frame international regulations concerning exclusive rights or protection deriving from provisions of penal law, while the International Labour Organisation would aim at promoting international standards applying to relations between performers and their various employers, the record manufacturers and the broadcasting organisations in particular.

As the provisions of the two projected international instruments should be complementary to one another, the opinion was expressed that the three intergovernmental organisations concerned should co-ordinate their activities, as the two Conventions constituted a common plan of action. It was expressly stated that this delimitation plan would require the approval of the competent authorities of the three organisations; the decision would rest, in the case of the ILO, with the Governing Body of the Office; in the case of UNESCO, with its General Conference, guided by the advice of the Intergovernmental Copyright Committee; and in the case of the Berne Union, with its Permanent Committee. Whereas the ILO Governing Body and the UNESCO General Conference are due to meet only towards the end of the year, the Permanent Committee of the Berne Union has already held its session, and so has the UNESCO Intergovernmental Copyright Committee, which is to make recommendations to the Director-General.

The Permanent Committee of the Berne Union and the UNESCO Intergovernmental Copyright Committee met in joint session under the chairmanship of Mr. Plinio Bolla, a former Swiss Federal Judge, to consider the delimitation plan mentioned above. During the discussion a letter was read out from the Belgian Ministry of Foreign Affairs in which the latter expressed concern at the decision taken by the Directors of the three intergovernmental organisations, which appeared to the Belgian Government to run counter to the views put forward by a number of governments when consulted regarding the two draft Conventions.

The Permanent Committee of the Berne Union and the UNESCO Intergovernmental Copyright Committee arrived at identical conclusions which may decisively affect the future of "ancillary rights".

Two resolutions were adopted, one on the contents of the new instrument planned by UNESCO and the Berne Union, and the other on the composition of the new Committee of Experts whose task it will be to pave the way for it. The instrument will deal with all the rights *erga omnes* that can be created in this field, whether or not they relate to the so-called "secondary uses" — a fact which suggests *a contrario* that the instrument prepared by the International Labour Office should be mainly in the nature of an international labour Convention. The UNESCO/Berne Union Convention is to be concluded first, within a reasonable time. As regards the new Committee of Experts that will have the duty of preparing that Convention, the idea is that it should be composed of experts acting in a personal capacity, but appointed or approved by a select number of governments with due regard for fair geographical distribution. Representatives of all the interested non-governmental organisations should be invited to attend with the right to participate fully in the discussion, except for the right to vote.

The procedure seems to have been cleared up sufficiently to warrant the inference that the Diplomatic Con-

ference which will have the task of drawing up and signing the UNESCO/Berne Union Convention will convene in 1960, whereas the ILO instrument should come to maturity in 1961.

INTERNATIONAL FEDERATION OF MUSICIANS

Agreement with the AFM. — An agreement was concluded on 16th August 1958 in Zurich between the International Federation of Musicians (FIM), the American Federation of Musicians (AFM) and the Grupo de Música del Sindicato Nacional del Espectáculo de España. The agreement was left open to signature by such other national musicians' trade unions as are eligible to sign. It appears to be the outcome of the strike which has been going on for some time in the United States, involving the AFM and the film producers who have been recording sound tracks in other countries, particularly in Europe, to make up for the lack of American musicians.

Under the terms of the agreement, the parties undertake upon the occurrence of a strike or a lockout, to request their members not to make recordings for an employer or producer involved in such strike or lockout when the recording would in normal circumstances have been made in the country in which the dispute has arisen.

The parties to the agreement shall further endeavour to prevent their members from making recordings for library purposes, that is to say, recordings to be dubbed into other recordings. It is understood, however, that this prohibition does not apply if the dubbing is only for the purpose of making one single final product and is merely part of the process of manufacture. Nor does it apply in the case of a recording to be dubbed into many other recordings, requiring the permission of the parties concerned or the making of a further payment for each dubbing.

Each party also undertakes to prevent the making by musicians of recordings, except for the creation of a single final product, such as a phonograph record or one specific motion picture, or unless it is understood that the dubbing shall be done only with the permission of the parties concerned or upon the making of a further payment.

It is further stipulated that the parties will endeavour to prevent the making of a sound track for a cinematograph or television film, the major part of which was filmed in another country, unless another sound track for such a film was also recorded in the country in which the filming was done.

The parties finally agree to make every effort to prevent the making of any type of recording intended to be used to accompany a direct live performance by actors, musicians, singers or any other class of entertainers.

Parties to the agreement will provide the other parties to it with all information relating to musicians and the furthering of their interests.

The reader will no doubt have gathered that certain

aspects of this agreement might have repercussions on television films.

GERMANY (Federal Republic)

Arbitration Award concerning Radio Free Europe.

— Radio Free Europe, an American concern broadcasting from Munich to listeners in Eastern Europe, has hitherto refused to pay copyright fees to GEMA, relying on the provisions of Section 27 of the German Copyright Act which states that the copyright holder's permission is not required for public performances of a published musical work that are not organised for profit and can be heard by the audience for nothing. Radio Free Europe took the point that its broadcasts were not given for pecuniary gain and that the listeners it catered for did not pay any licence fees to the station.

As GEMA challenged this line of argument, an arbitration tribunal had been set up by common consent of the parties. The issue of *GEMA Nachrichten* for June and July 1958 reports that the three arbitrators handed down their award on 9th May 1958, dealing only with the question of principle and leaving the amount payable by Radio Free Europe and the costs of the arbitration proceedings to be assessed at a later date.

The arbitrators found that Section 27 of the Copyright Act was not applicable *in casu*. Going against an old decision of the *Reichsgericht* which saw broadcasting (not mentioned in the Act) as a variety of the "issue of copies", the arbitrators adopted the view that radio-electric broadcasting was a method apart of using the work that did not come under the head of performance or of issue of copies. In their opinion this is a gap in the Act which should be bridged by arguing from analogy. The arbitrators accordingly feel that if the legislature thought it right and proper to give the author of a musical work the performing rights in such work, even when it had been published, it is appropriate *a fortiori* to give him the power of controlling broadcasting which, compared with performance in public, represents a much wider form of diffusion. However, since no public performance *stricto sensu* is involved, the radio station cannot avail itself of the exception in section 27.

Under the terms of the arbitration agreement between the parties there is no appeal from this decision. It will doubtless have repercussions on other foreign stations in Germany which may from time to time present programmes containing music controlled by GEMA.

Communication of Television Broadcasts to the Public.

— In pursuance of decree No 176/1956 published in the official gazette of the federal Ministry of Posts and Telecommunications, the conditions of the licence permitting the possession of a television receiver contain in clause No 5 the stipulation that "commercial operation of the television receiving installation requires the authorisation of the Federal Post Office". By "commercial

operation" is meant in particular the use of a television receiver before a paying audience, such as in cinemas, or the use of such an installation in cafés, etc., whether or not the customer pays a supplement over and above the normal price of the drinks supplied.

By a decree dated 25th July 1958, the Ministry has decided that the authorisation required by item 5 of the licence should now be considered as granted in a general way. There is a reminder however that "possible claims founded on copyright are not affected by this general authorisation".

It must be concluded from the measure that has just been taken that German broadcasting organisations will no longer be able to rely on administrative law to prevent the public exhibition, especially in cinemas, of their television broadcasts. Protection of such broadcasts against communication to the public will have to be sought by having recourse to private law.

UNITED STATES

Use of Motion Pictures on Television. — According to the 30th July 1958 issue of *Variety*, the music publishers recently instituted proceedings in the New York Federal Court which may have important bearings on the use of cinematograph films in television. There are in fact three separate suits in which the plaintiffs are applying to the Court for a declaratory judgment upholding their contention that such of these films as contain music cannot be shown on television without a further licence from the publishers holding the copyright in the music. The publishers base their case on the following main arguments:

- (i) the reproduction rights in the music were granted to the film producers solely in contemplation of cinematographic exhibition *stricto sensu*;
- (ii) these rights were granted solely for 35-mm. films, whereas in the majority of cases the films were used on television in the 16-mm. format;
- (iii) consequently this amounts to re-recording and use not covered by the original contract.

As the case is as yet only just beginning it is obviously difficult to forecast its outcome. It can safely be said, however, that the fundamental problem before the Court is akin to that which the Belgian judiciary had to resolve in the "surtax" case. In both instances, the issue was the "intended purpose" of the assignment or licensing of the mechanical rights, and in each case the question arose whether a subsequent change in purpose came within the purview of mechanical rights, or whether it was solely a matter of performing rights, the point being that the American stations using cinematograph films, like the European stations using commercial records, possess a licence issued by the *petits droits* society to cover the music thus performed.

BOOK REVIEWS

PUBLICATIONS CONCERNING THE
INTERNATIONAL PROTECTION OF RIGHTS
ANCILLARY TO COPYRIGHT

The discussions on the international protection of rights ancillary to copyright, which seemed a few years ago to be heading fairly rapidly towards the conclusion of a multilateral Diplomatic Convention, have of late been trudging along at a somewhat more laboured gait. The three interest groups most directly concerned (performers, record manufacturers and broadcasting organisations) have not given up hope of attaining their objective, but they are being harried by a hostile cohort of increasing intractability in the shape of the authors or, better, the men of law they have enlisted in their cause. It is a rather curious state of affairs. It looks as if these skirmishers have now conceived the plan of checking, or perhaps even halting, the whole advance. Why this action, which can only be described as a last-ditch stand? Doubtless the answer will be that it is never too late to mend, which, from the authors' standpoint, has something to commend it. It may be that they had not paid very much heed to the matter, or simply not kept themselves informed of the early moves towards international recognition of the rights ancillary to copyright. However this may be, opinion in the camp of the originators of literary and artistic works is at present very much on the alert for new developments. Your critic has before him three publications, two at least of which, by **Adolf Streuli**, the Governing Director and Business Manager of the *Société suisse des Auteurs et Editeurs*, and **Wenzel Goldbaum**, barrister, professor and co-founder of the International Confederation of Authors' and Composers' Societies, are what the late Ferdinand Brunetière called *discours de combat*, in other words, spoken or written diatribes or dithyrambs on a given thesis. The third work, from the pen of **Wilhelm Peter**, cleaves steadfastly to fact, and analyses the two preliminary drafts drawn up in the one case by the International Labour Organisation (ILO) and in the other by UNESCO and the Berne Union for the Protection of Literary and Artistic Works. These three publications, to which may be added a significant paper by Professor **Philipp Möhring** in the collection of studies sponsored by the *Internationale Gesellschaft für Urheberrecht*, show how allergic the organised authors now are to ancillary rights, reacting with the sensitivity of a physical organism to the slightest stimulus. The random reflections thrown out by your critic in the following lines have no other purpose than to follow these doughty experts for a moment in their feats of derring-do.

Mr. Streuli, in the various essays that make up his pamphlet¹, makes much of the fact that what the performer has to offer is something that differs altogether from literary and artistic creation, from which it follows that the activities of the record manufacturer and the broadcaster are *a fortiori* even more remote from those of the author. I am inclined to see his point. There is a difference, and a most material one at that, between the intellectual progeny of writer or composer and the interpretation of actor or performer. The first two are able to turn out their work without necessarily relying on a pre-existing creator; the others, by contrast, can do nothing without this initial creator. The Germans have a word for this; by using the expression "*nachschaffender Künstler*" to designate the performer, the German language throws into relief the dependency of the artiste: creative he may be, but only in terms of and on the basis of a previous work. In an article appearing in the *Tribune de Lausanne* on 30th June 1958 a very eminent composer in French Switzerland harps, if I may say so, on the same chord. "The performer is only an intermediary," he writes, "whose function may be of signal service, but who becomes intolerable when he presumes to supplant the originator of the work." The holder of these views is altogether in character as a creative artist; yet he has seized only part of the truth. The performer admittedly is an intermediary, but he is a very special one in two ways.

In the first place he is indispensable to the creative artist and to the audience. What would become of the composers if they had no virtuosi to hand to bring their works to the public? It is not merely a matter of establishing intellectual contact with music lovers, it is a mundane and important question of hard cash. Does anyone believe that the composer can make ends meet on the proceeds of his sheet-music sales to musical enthusiasts playing at home? He has got to have the fees attracted by concerts and dramatico-musical performances, the royalties on the sale of records, the collections in respect of "live" or pre-recorded broadcast recitals. All these forms of revenue pre-suppose the intervention of performers of the class of the professional virtuoso rather than that of the mere amateur, however gifted. The composer provides the raw material, but it would remain very largely unproductive without the performer's contribution.

There is more to it than that, and here we come to the second characteristic of the performer. He, just as much

¹ A. Streuli: *A propos des droits dits voisins du droit d'auteur*. Brugg (Switzerland), Effingerhof A.G., 1958.

as the author, puts his personality, his soul, into what he does. Parallel to the author's moral right in his work the performer has a moral right in his rendering. However great may be the divergencies between the brain-child of the author and the *prestation* of the performer (the *Leistung*, as the Germans put it), and however right the legal advisers of the authors may be to stress these divergencies, the fact remains that when it comes down to personal rights the author and the performer are equals, for both put the most intimate depths of their being into their work. Nobody quibbles about giving the translator a copyright (at second hand) in his translation; but has anyone ever thought that a translation is less revealing of the originality of the translator than a performance is of the sensitivity of the performer? Plenty of performances, of course, are nothing but hack work, in which one would look in vain for any hint as to the inner nature of the performer; but this goes for a whole section of literary and musical works as well. A performer's right ancillary to copyright is justified by the involvement of the performer's personality in his performance, an involvement that will ring truer the higher the class of the virtuoso and the work performed. The mark of a talented composer is to embody in his works a wide-ranging interpretative potential, if I may be pardoned the term, in which the accessory creative power of the performer can find expression.

The authors are wont to repeat that they are indeed in alliance with the performers in the dissemination of literary and artistic works, but that their rights and those of the performers differ in their foundation, in their nature and in their subject-matter, and hence call for differing systems of protection. This rather pat presentation of the matter (which I have taken from a recent resolution of the International Confederation of Authors' and Composers' Societies) does not, to my way of thinking, stay close enough to the facts. Granted, the rights of authors and those of performers are not alike as to their subject-matter, as we have seen above; but their basis is identical, at least as far as the moral right is of any relevance. And after all, can they really differ fundamentally in nature? I am not at all sure they can. For up to now no one has found a way of casting the protection demanded by authors and performers in any other legal moulds than those of the exclusive or privative right on the one hand and the mere right to remuneration on the other. We may criticise those parliaments that have dismissed ancillary rights with the odd provision or two all but submerged in the copyright statute, or that have felt it their duty to tack on to this enactment an additional chapter dealing with ancillary rights. By all means let us have a clear dividing line, because the two things are quite different. But when we have carefully separated copyright from the rights of performers, record manufacturers and broadcasters, we are still compelled to fall back on the same forms or procedures of protection for all the beneficiaries. Admittedly there is room for some caution in granting the *droit moral*, a device I

should be rather inclined to keep for authors and performers alone. But once this precaution is taken what remains to offer to the record manufacturers and the broadcasters? The right to obtain a fee, and this as a rule should suffice. If it is necessary to provide for contingencies where an exclusive right is indicated, recourse can be had to such a right, though of course less often than in the field of copyright. Nevertheless the similarity in the means employed cannot be denied. The net result is that however understandable may be the desire of the authors to keep their distance from those lesser lights who aspire to ancillary copyright status, it is not likely to lead to any striking differences in structure. If something is to be done at the international level in the field of ancillary rights, there will be no getting away from the jargon and the legal paraphernalia of copyright.

But that, of course, is the whole point: might it not be that in their secret hearts the authors are hoping for the whole thing to be a resounding flop? Their carping about everything that has been prepared up to now leaves a rather gloomy impression, and in this connection the brochure by Mr. Goldbaum¹ entitled *Schöpfung oder Leistung?* makes edifying reading. It flails away in an almost sadistic manner at the international bureaucracy that has been poring over problems of ancillary rights since 1939. Mr. Goldbaum boxes naughty ears right and left, and a number of worthy dignitaries who are a trifle over-fond of cosy committee-work and travelling in style are given a tart rap over the knuckles. Our pamphleteer would seem, however, to have forgotten the Talleyrand aphorism: *ce qui est exagéré est insignifiant*. The reader chuckles, is amused for a moment, and turns away. A pity, because after all there is a modicum of truth in what Mr. Goldbaum writes.

Mr. Peter² adopts a more austere approach, but then copyright and the subjects which grow more or less unchecked in its shade are hardly an object of merriment. The important thing at this juncture is to reach agreement with the authors if the whole campaign is not to taper off into sterile agitation. Both the ILO, and the UNESCO/Berne Union drafts are categorically rejected by the authors' representatives, and that is why I confessed to some pessimism just now. However, this aloofness *in specie* is not of itself proof of a systematic refusal on principle. Messrs. Streuli and Möhring have not uttered a *non possumus* for good and all³. There is reason to

¹ Wenzel Goldbaum: *Schöpfung oder Leistung?* Berlin and Frankfurt, Franz Vahlen, 1957.

² Wilhelm Peter: *Die Entwürfe eines internationalen Abkommens über den Leistungsschutz*. Schriftenreihe der Ufita, Heft 8, Baden-Baden, Verlag für Angewandte Wissenschaften, 1958.

³ In his study of the question, Professor Möhring makes a searching examination of the different theories put forward to justify the protection of ancillary rights and devotes by far the greater part of the work to showing why he rejects all of them. This should not blind us, however, to the less negative side of Professor Möhring's paper, where he expresses the opinion that the important thing for the performers is to share in the improved returns for

hope that in this set of circumstances deftly handled negotiations might stand a chance of success. Conceivably the forthcoming meetings in Geneva of the Committees of the Berne Union and the Universal Copyright Convention will facilitate a *rapprochement*¹; in such a case the comparative analysis Mr. Peter has made of the two drafts now in existence would be extreme-

their labours arising from new inventions whose benefits should not be reserved to the employers. These legitimate interests can be satisfied, Professor Möhring adds, by means of collective or individual tariffs. As for the record manufacturers and broadcasting organisations, they are referred to the provisions relating to unfair competition. In a word, no international convention effective in respect to third parties. The stand is extreme, but probably not definitive.

¹ According to information that seeped through in the early days of September, the Geneva Committees, as they might be called, recognised the necessity of having the whole question studied again by an international Committee of experts. Indeed, it seems impossible to convene a diplomatic Conference in the absence of a single basis of discussion. The proposal now appears to be that UNESCO and the Berne Union for the Protection of Literary and Artistic Works should be entrusted with the preparations for the Convention proper envisaging rights *erga omnes*, and the ILO should be asked to frame a collective working agreement. This solution would be very similar to that suggested by Mr. Streuli at the end of his collection of essays. But would it satisfy the ILO? Despite its long and patient efforts, the Geneva organisation, which certainly has a right to some priority in the matter, would find itself edged aside in the race to the winning-post. I cannot help feeling rather uneasy at the thought, for surely with a little good will it ought to be possible for official institutions such as UNESCO, the Bureau of the Berne Union for the Protection of Literary and Artistic Works, and the ILO to work together harmoniously. If the example were set in high places, it might encourage the interested groups—authors, performers, record manufacturers and broadcasting organisations—to seek along parallel lines a common meeting ground on the basis of mutual concessions.

ly useful. It is a monograph that can be warmly recommended to the experts who will shape the course of future international developments in the field of ancillary rights. The author inspires confidence by his moderation coupled with a sound knowledge of the subject, and not only because of his marked individual ability but also on account of his nationality; as an Austrian he comes from a country where the protection of ancillary rights has been on a proper statutory footing for the last twenty years and more. Mr. Peter's counsel is drawn at once from meditation and experience. His thirteen-point conclusions seem to my mind likely to exert a wise influence on future discussions. In addition one can only applaud Mr. Peter's political acumen; without swearing blind allegiance to the ILO preliminary draft or to the UNESCO/Berne Union document he has still managed to retain the good points of both. The higher minimum standard of the former would be adopted *in thesi*, but mitigated by a system of optional reservations which would allow the countries to decline to be bound by provisions that go beyond the more unpretentious standard of the latter. Very rightly, too, he recalls that an essential condition precedent for any international agreement is a compromise between the three interest groups most directly affected, in that they are to become the recipients of rights under the new instrument. This compromise exists; what is needed is the go-ahead from the authors. There is no thought of imposing sacrifices on them that they consider to be unconscionable. But they too have their responsibilities. I firmly trust they will not seek to evade them for good, despite the stiffer attitude mentioned at the beginning of this article.

B. M.

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